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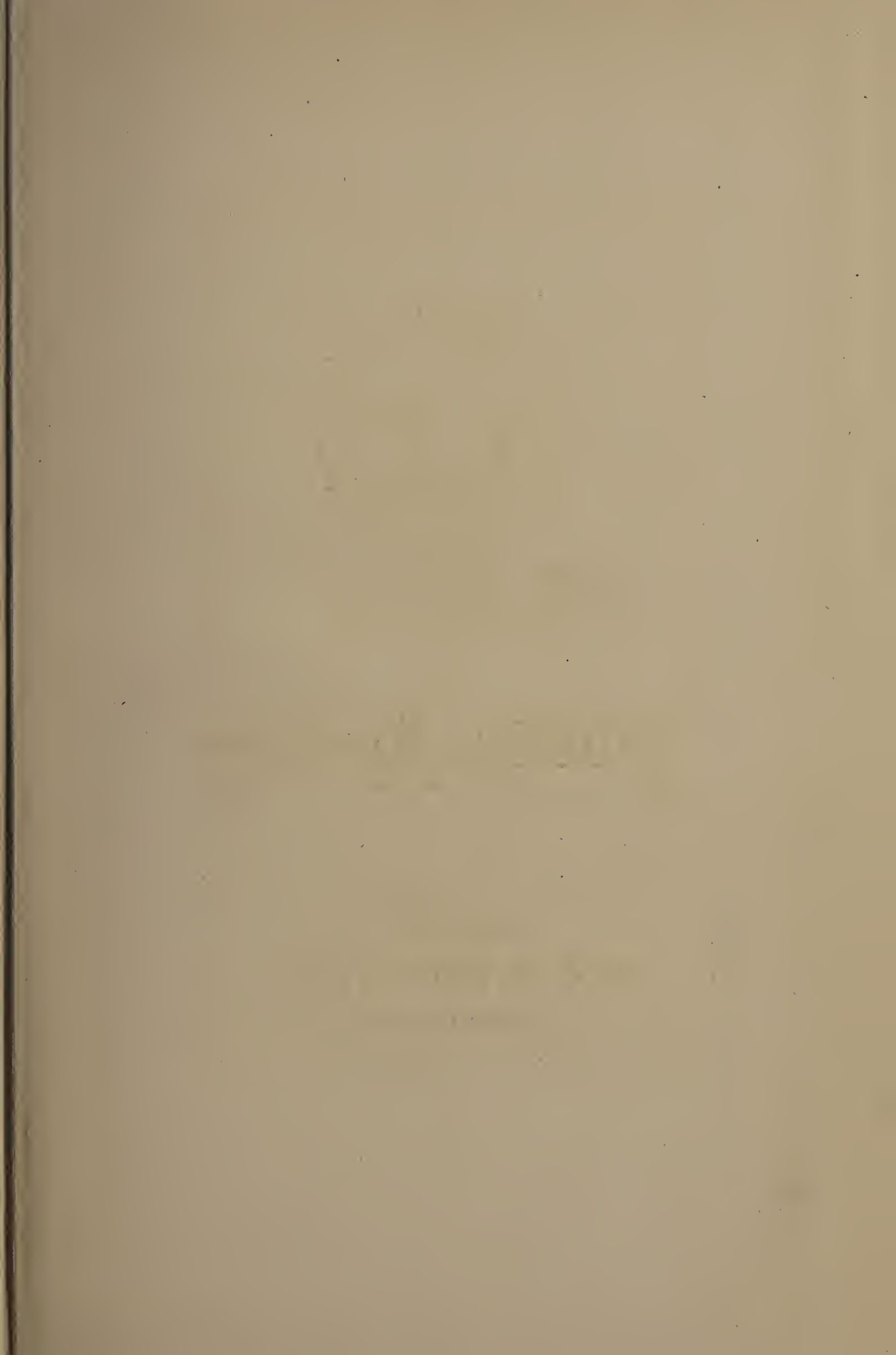
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THE HISTORY OF SOUTH CAROLINA

UNDER

THE PROPRIETARY GOVERNMENT

1670-1719

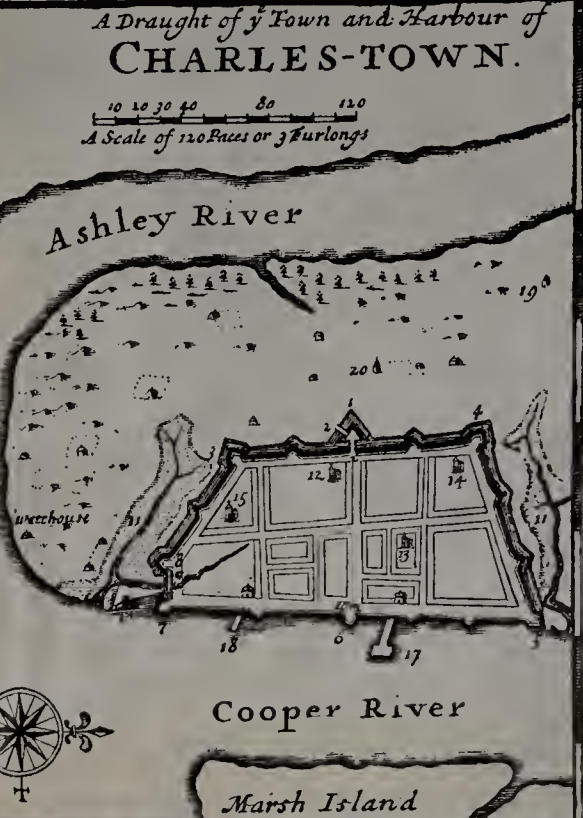
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- Explanation**
1. Johnson's Raveline
  2. Draw Bridges
  3. Colletons Bastion
  4. Carteret Bastion
  5. Craven Bastion
  6. The Half Moon
  7. Granville Bastion
  8. Ashley Bastion
  9. The Pallisados
  10. Blakes Bas
  11. The Creek on both sides
  12. English Ch.
  13. French Ch.
  14. Presbyterian Meeting H.
  15. Anabaptist Meeting H.
  16. Court of Guard
  17. Coll. Rhens Bridge
  18. another Road
  19. The Ministers House
  20. The Quakers Meeting House



- Explanation**
- a. Hunt
  - b. I. Zard
  - c. Dickerson
  - d. Brown
  - e. Dryo
  - f. Cockfield
  - g. Grim bald
  - h. King
  - i. Perryman
  - k. Jackson
  - l. Lund
  - m. William
  - n. Wm Son
  - o. Neader
  - p. Gray Green
  - q. Collaton
  - r. West
  - s. Pendarvis
  - t. Simons
  - u. Cartwright
  - w. Beaden
  - x. Lowson
  - y. I. West
  - z. Rivers
  1. Morris
  2. Young
  3. Morgan
  4. Mathew
  5. Carmila
  6. Rowzer
  7. Miller
  8. Dearsley
  9. Brady
  10. Habcaw



Copied from an original map of the principal part of North America, in the Library of Thomas Addis Emmet M.D. of New York, for Mayor Courtenay, of Charleston S.C.





THE HISTORY  
OF  
SOUTH CAROLINA  
UNDER THE  
PROPRIETARY GOVERNMENT  
1670-1719

BY

EDWARD McCRADY

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THE HISTORICAL SOCIETY OF SOUTH CAROLINA

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THE following study of the history of South Carolina has been made amidst the engagements of a busy professional life, in hours snatched from that jealous mistress — the law. It has been a labor of love, and has been undertaken and carried on with the single purpose of learning and telling the story of the State of which the author is proud to be a son and a citizen. In the course of his study, he has found, as he conceives, occasional errors in the works of those who have preceded him ; and these he has pointed out. He cannot hope himself to have escaped like mistakes — though he has striven to do so. It will be the duty of those who come after to correct where he has gone astray. He only asks that this shall be done in the spirit of fairness he has endeavored to observe. To his readers in general he would recall the lines of the poet : —

Whoever thinks a faultless piece to see,  
Thinks what ne'er was, nor is, nor e'er shall be.  
In ev'ry work regard the writer's end,  
Since none can compass more than they intend ;  
And if the means be just, the conduct true,  
Applause, in spite of trivial faults, is due.

POPE'S *Essay on Criticism*, 250-260.





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# HISTORY OF SOUTH CAROLINA UNDER THE PROPRIETARY GOVERNMENT

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## INTRODUCTORY CHAPTER

THE domain of the United States of America was chiefly settled by the English under Royal grants, from three principal points, nearly equidistant from each other: Jamestown in Virginia, in 1607, Plymouth in Massachusetts, 1620, and Charles Town in Carolina, in 1670. From these points have emanated the differing political thoughts of the country, which have, in the main in parallel lines, accompanied the tide of emigration westward.<sup>1</sup>

Physical causes marked great differences in the development of these settlements, and especially in that of Carolina from the other two. To these physical causes

<sup>1</sup> The extent of emigration from South Carolina is not generally realized. It is not generally known that she was one of the great emigrant States. "Yet from 1820 to 1860," says General Francis A. Walker, in his Introduction to the United States census of 1880, "South Carolina was a beehive from which swarms were continually going forth to populate the newer cotton-growing states of the Southwest." The whole population of the State in 1860 amounted to 470,257. There were then living in other States 193,389 white persons born in South Carolina. That is, two-fifths of the whole native-born population had emigrated and were then living in other States, and these almost entirely in Georgia, Alabama, Mississippi, Louisiana, Florida, and Texas. In 1870 out of 678,706 native-born South Carolinians more than one-third, about 246,066, were living in other States.

others were added which tended to form the society of Carolina upon a basis differing from that of the other colonies; and to produce a people to a considerable degree peculiar in their characteristics.

The colony of Virginia was little further from that of Massachusetts than from that of Carolina; but the territory between Virginia and Massachusetts, already to some extent peopled by the Dutch, was soon filled up by the settlements of the provinces of Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland, forming a chain of colonies linked together by neighboring influences and conveniences, and thus begetting something of a common American colonial sentiment. There was nothing in the situation of the colony of Carolina to produce a similar effect. The colonists at Charles Town, more than three hundred miles south of the James River, were practically much further than that distance from Virginia, the nearest established colony. Hatteras projecting into the ocean rendered communication between the first settlers in Carolina and the other colonies, in their small vessels, more dangerous almost than that with England. The only travel by land between Carolina and Virginia was by Indian trail. There were no roads nor means of transportation. Lederer, the learned German explorer, whom Governor Berkeley sent out from Virginia in 1669 to explore the country, after travelling for months with Indian guides certainly did not reach beyond the Santee—if, indeed, he entered at all the territory of the present State of South Carolina.<sup>1</sup> A postoffice was established in Charles Town as early as 1698, but this was for European and West Indian correspondence. Peter Timothy, postmaster, gives notice in the *Gazette*, August 19, 1756, nearly sixty years after,

<sup>1</sup> *History of No. Ca.* (Hawks), 52.



that the first mail from Wilmington (North Carolina) is hourly expected to arrive here, and will set out on his return two days after his arrival. This was to be continued every fortnight, and those who wished to have their letters forwarded by this conveyance were requested to send them in time. The letter of intelligence of the battle of Lexington, which was transmitted from committee to committee, dated 24th of April, 1775, and starting from Wallingsford, Connecticut, one hundred miles from New York, reached Charleston in seventeen days. It was sixteen coming from New York, fifteen from Princeton, ten from Fredericksburg, Virginia, and three days from Wilmington, North Carolina.<sup>1</sup> This was by express, and was considered remarkable for its dispatch; and so it was, for the express which brought the news of the Declaration of Independence from Philadelphia did not reach Charleston until the 2d of August, twenty-nine days after it had been adopted in Congress. It reached Paris but a few days later than it reached Charleston, *i.e.* some time in the first half of the month of August. The *South Carolina and American General Gazette*, of the 11th of September, 1776, complains that though not long since an express had come in sixteen days from Philadelphia, the Northern Post generally took about double that time. Ships frequently arrived from England, bringing European news within the month. Thus separated from the other colonies by distance, and still more so by the character of the intervening country, South Carolina was left to struggle by herself for existence.

The colony was for a long time, indeed until 1733, the distant outpost between the other English colonies and the Spaniards at St. Augustine, and the French on the Mis-

<sup>1</sup> Drayton's *Memoirs*, vol. I, 248.

issippi. It was planted to assert the dominion of Great Britain against that of Spain in disputed territory. At each end of the long attenuated line of the British settlements on the American coast there was a hostile post. At the North the French in Canada were jealously watching the growth of the English colonial system, while at the South the Spaniards in Florida, regarding the planting of the colony in Carolina as an invasion of their own territory, were on the alert to attack it upon every favorable opportunity, regardless whether peace or war formally subsisted at the time between Spain and England. The French were a menace to New England, but the colonists there could be reached only by an overland invasion, which, by the climate, was practically restricted to one season of the year, and which, from the difficulty of transportation, was much less serious. The Spaniards at St. Augustine, on the other hand, were the constant active and malignant enemies of the Carolinians, who were at such a distance from the other British colonies as to be beyond the reach of their support. Then, too, Charles Town was a little further from St. Augustine than a third of the distance from Jamestown, in Virginia, the nearest settlement, with the exception of the feeble colony at Albemarle, from which no support could be extended. The Carolinians were open to attack by sea, and to this danger they were open at all seasons of the year.

This separation of South Carolina from the other colonies on the Continent was recognized and acted upon in the treatment of the colony by the Government in England. It was regarded as more nearly allied to the island colonies than to those on the main. Thus when Edward Randolph, the collector of the King's customs, proposed in 1694 a rearrangement and consolidation of the Colonial

Governments for the better control and collection of the King's revenue, he recommended that the Proprietary Governments should be set aside, and that South Carolina and all the Bahama Islands should be put under one government, under her Majesty's immediate authority; that North Carolina should be annexed to Virginia, Delaware to Maryland, West Jersey to Pennsylvania, East Jersey and Connecticut to New York, and Rhode Island to Massachusetts, thus reducing the number of the colonies to but six.<sup>1</sup>

This treatment at home, and constant exposure to attack from St. Augustine by sea and from Indians on land, instigated alike by the Spaniards in Florida and the French from Mobile, had great influence upon the development of the Carolina colony, alike upon the organization of its government and its social structure.

In the first place it forced the Carolinians to depend upon themselves for their defence, and to that extent produced a sentiment of independence in regard to the other colonies.

In the next it began the centripetal character of the development of the colony, which as a province and State South Carolina so long retained, and which indeed she has not even yet entirely lost. The colonial development of Virginia was by rural communities. There was no city or town life. "The only place in Virginia previous to 1700 to which the name of a town could with any degree of appropriateness be applied was Jamestown, and even this settlement never rose to a dignity superior to that of a village."<sup>2</sup> Williamsburg was never more than a college town and seat of government. In New England the colonists separated very early into different com-

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 441, 442.

<sup>2</sup> Bruce's *Economic History of Virginia*, vol. II, 525.



munities. In Connecticut, says Professor Johnston, town and church were but two sides of the same thing, and as there would be differences of opinion in church as well as in town matters, every religious dispute gave rise to a new town until the faintest lines of theological divergence were satisfied.<sup>1</sup> Each of these new towns with its own peculiar schism became a new centre, from and around which population spread. But in South Carolina the constant and immediate danger of invasion by Spaniards and Indians, as exemplified in the utter destruction of the attempted settlement by Lord Cardross at Port Royal in 1686, restricted the colonists for many years to distances within reach of the fortifications of Charles Town, and formed within and around it a compact body of society, with outlying plantations, from which in case of alarm the colonists withdrew to the town, as in case of the rising of the Yamassees in 1715. When this danger was overcome by the increase of population, and the founding and building up of the colony of Georgia, the unhealthfulness of the country along the rivers, increased, if not caused, by the disturbance of the soil and the stagnant water of rice planting in the inland swamps, compelled the planters to reside in the summer in the town or in some high resinous pine-land settlement away from malaria.<sup>2</sup> Thus, until the immigration of the Scotch-Irish and Virginians into the upper country by the way of the mountains, from 1750 to 1760, the development of

<sup>1</sup> *Connecticut*, Am. Com., Series 6.

<sup>2</sup> A recent writer, of whom we shall have occasion presently to speak, has fallen into the curious error of stating that it was the winter months during which the wealthy planters, owing to the unhealthfulness of the surrounding country, were in the habit of resorting to Charlestown, missing at once the fact and the cause. *Government of the Colony of South Carolina* (Whitney). *Johns Hopkins University Studies*, 13 series, 1-11.

the colony was not, as in New England, from many and distinct settlements or towns, but from one point, the circle enlarging as the population increased, but always with reference to the one central point, — the town, — Charles Town.

The development of Carolina thus presented the anomaly that, though it was a planters' colony, it was developed by way of city or town life. Boston was the largest town in Massachusetts, but there was organization and administration outside of it. For many years Charles Town practically embodied all of Carolina. Beaufort, the next town to be settled, was not attempted for more than forty years after the planting of the colony, and Georgetown not until some years later. Until 1716 elections were generally held in the town for all the province, and representation outside of it — that by parishes — was not practically established until the overthrow of the Proprietary Government in 1719. No court of general jurisdiction was held outside of it until 1773, over a hundred years after the establishment of the colony. There was only one government for the province, the town, and the church. The same General Assembly passed laws for the province, laid out streets, regulated the police for the town, and governed the church. Even after the colony had grown, and the upper country had been peopled from another source, every magistrate in the province was appointed in Charles Town until the Revolution of 1776, and after that, upon the adoption of the Constitution of 1790 and the change of the seat of government to Columbia, at that place. There was thus from the inception of the colony in 1665 to the overthrow of the State in 1865, for two hundred years, only one government in South Carolina. There was no such thing as a county or township government of any kind.

From the isolation of the colony during the period of its formation, and for long after, it remained a dependency of England, as well in interest as in fact, rather than dependent upon the support and sympathy of its distant sister colonies ; and with the love of the old country, with which communication was constant and close, everything tended to limit whatever patriotism there might be to the gradually extending area of the province, while the constant recurrence in thought and act to the central point, the town, developed and intensified the Carolina conception of the entity of the State and of its absolute sovereignty.

There were other potent causes tending to differentiate the colonists of Carolina from those of the other provinces. All the other colonies, except New York, were peopled by emigrants in the main directly from the British Islands ; but beside the large Huguenot element in her population, Carolina was settled in a great measure from Barbadoes and the other British West Indies. Navigation to the southern parts of America was at first entirely by the way of the West Indies, and though Ribault in 1562 had ventured directly across the Atlantic, the course of communication between Carolina and England continued for many years to be principally by way of Barbadoes. The first colony sent by the Proprietors sailed for Barbadoes, consigned to agents there, from which it was dispatched to Carolina by way of Bermuda. While in the formation of the other colonies the whole structure of society was of necessity built up from the very foundation in accordance with the peculiar environment of each, the social and political system of Carolina was to a considerable extent transferred from that island in a state of advanced development. The settlers from Barbadoes under Yeamans brought with them a colonial system which, though comparatively new and not fully developed,



was little later than that of Virginia and nearly contemporaneous with that of Massachusetts; and the basis of this social system was the institution of African slavery. The attempt to engraft upon this social order a legally recognized aristocracy of Landgraves and Caciques, proposed by Locke and adopted by the Proprietors under the influence of Shaftesbury, and the struggle caused by its attempted enforcement, helped much in the formation of the peculiar characteristics which were to mark the political and social organization of South Carolina, giving to it on the one hand a strongly aristocratic tone with a party for sustaining prerogative, while on the other it developed in the very outset a party of the people who based their rights upon the dogma of a strict construction of chartered or constitutional provisions.

Then again, the establishment of the colony in proximity to the Spaniards, and the hostility of the Indians under French and Spanish influence, necessitated from the very beginning a military organization of the people; and this was also rendered the more necessary by the increasing number of negro slaves, — savages, — which became a source of weakness in times of danger, and, until the institution in the course of years became thoroughly settled, a constant source of care and anxiety. The colonists, as we shall see, were desirous of checking the importation of negroes, not from any moral objections to slave holding, but from their apprehension of the danger of being outnumbered by the negroes, and of their rising in case the whites should be assailed by the Indians, or through the instigation of the Spaniards or French, as did happen in 1740. This danger gave rise to a military police organization of the whole people, which continued from 1704 until the emancipation of the negroes as the result of the war of secession.

Under this system the province, and afterwards the State, was divided into military districts, the chief of each of which was a colonel, and these again into other districts, or beats, under captains. The captain was the police officer of his district, or beat, and was charged with the patrol and police of his beat and the enforcement of the regulations in regard to the slaves. The regimental and company military precincts were thus coincident with the police districts, and the two formed one system. The captain of a beat or militia company thus charged with the maintenance of order in his district was a man in authority for the time, and as the duties were onerous the office was not usually held longer than the term which exempted one from further service. So each young man of position in a neighborhood took his turn of duty, and thus acquiring the title of captain retained it unless he became colonel. There were usually, therefore, a considerable number of men in each community having the title of "captain" or "colonel," and the designation implying a person of some local consequence was sought, and sometimes assumed without actual service. This system gave a military organization to the people, which was much more effective and exacting than ordinary militia enrolment and muster. So imbued was the system of government brought from Barbadoes with a military spirit that the high sheriff of the province retained the military title of "provost-marshal" for a hundred years — indeed, until the American Revolution. To this source may be traced the prevalence of military titles in the South, as that of "judge" or "squire" in other communities, indicating persons of local consequence.

Another principle to which the people of South Carolina have been as devoted, and have clung with equal consistency as to that of the autonomy of the State, is

that of the inviolability of the family relation. Nowhere has the family bond—the foundation and germ of all society and government—been more sacredly guarded and effectually preserved. It has been a part of the Constitution of the State—unwritten, it is true, until 1895—but nevertheless fully recognized and enforced—that divorce should never be allowed. There never has been a divorce in South Carolina—province, colony, or State—except during the Reconstruction period after the war between the States, under the government of strangers, adventurers, and negroes, upheld by Federal bayonets. There is but one case of divorce reported in her law books, and that was during that infamous rule. The legislature of the State has persistently refused either itself to grant divorces or to authorize its courts to do so. In conferring powers and jurisdiction upon its courts those of the ecclesiastical tribunals were purposely excluded. “Whether wisely or unwisely,” said Chancellor Dunkin in a case in which an effort was made to have the court declare marriage void, “the legislature has thought proper to withhold these powers. They have delegated to no court the authority to declare a marriage void, and they have never themselves exercised the authority.”<sup>1</sup> The Constitution adopted in the last

<sup>1</sup> See the cases of *Mattison v. Mattison*, 1 *Strobert Equity Reports*, S. C., and *Bowers v. Bowers*, 10 *Richardson's Equity Reports*, S. C. The latter a case decided by the Court of Errors consisting of all the law judges and chancellors on equity of the State.

It is sometimes suggested that this prohibition of divorce has been more a matter of form than of substance, as persons desiring divorce had only to go into another State, obtain a decree, and return. This has undoubtedly been attempted, but is countenanced neither by the courts nor by society. In a case *Duke v. Fulmer*, 5 *Richardson's Equity Reports*, 121, involving a question of property, it was attempted to set up such a decree obtained in another State; but the courts of the State would not permit it, but held that a marriage contract once entered into in South



year (1895) has now made the prohibition of divorce a part of the written organic law of the State. With this inexorable rule in regard to the irrevocability of marriage once entered into the family group has been at once the source of social and political strength. The people of South Carolina have recognized and acted upon the great political truth that in a republican form of government above all others is the family the strength of the State. She has held out to her sons that in establishing their own position upon a political or social eminence they were establishing it for their sons as well. She has been ready to recognize and has hailed with satisfaction and reward the evidence of the worthiness of the sons to succeed the fathers whom she had honored with public trusts. And so it has been that generation after generation finds the same names in her public records. It is no uncommon thing to find the sons to the third and fourth generation sitting together in the councils of the State. This political and social policy has given to the State many long lines of illustrious men.

Most of the elder States, says a recent English writer, preserve throughout American history an individuality quite as distinct and persistent as that of the leading Greek cities or great Roman families. But above all the dauntless and defiant spirit, the fiery temper, the venturesome chivalry of South Carolina, continually remind the student of American history of her mixed origin,—the early interfusion of the blood of the English Cavalier with that of the Huguenots, who transmitted to their offspring

Carolina is indissoluble, either by consent of the parties or by the judgment or statute of any foreign tribunal or legislation. A divorced person in the State of South Carolina is as rare as the Northern gentleman who had been abroad, who, Mr. McMaster tells us, was pointed out as a curiosity as late as 1795. *Hist. of the United States*, vol. I, 51.



the traditional gallantry and martial spirit of their Gascon ancestry. Nothing in her situation, geographical, political, or industrial, required her to take the foremost place in sectional conflict. But in almost every collision the Palmetto State comes to the front as the promptest, fiercest, most determined champion of State sovereignty, slavery, and Southern interests.<sup>1</sup> Another writer observes that a Virginian of to-day is first a Virginian; a South Carolinian is above all things a South Carolinian, but next they are both Southerners, and lastly Americans. Whether these criticisms are altogether true or not, the people of South Carolina, admired or condemned, have been recognized as a people of marked and distinctive characteristics. They have held and maintained determined policies throughout their history, and have impressed them upon other parts of the country. For this the calamities which befell in the war which they challenged have been by some regarded as a just retribution. But whether praised or blamed the fact is certain that they have been recognized as in many respects peculiar in their character.<sup>2</sup>

This, too, is more remarkable when, as every one familiar with the local history of the State well knows, there have been always marked and well-defined differences between themselves in almost every respect in which they appear to strangers as one people. It is all the more remarkable, too, since these differences have been, so to speak, organic, having had their origin in the very settlement of the State, and have not been evolved from differing circumstances among those who were once the same people.

To some of the first causes of these marked characteris-

<sup>1</sup> *Hist. of the United States* (Percy Greg), vol. I, 439.

<sup>2</sup> Preface to *Cyclopedia of Eminent Representative Men of the Carolinas of the Nineteenth Century*, by Edward McCrady.

tics we have already referred. These and others scarcely less potent will more fully appear as we proceed. We shall attempt in the following work to trace the history and the development of the State of South Carolina socially and politically from the inception of the colony to the end of the American Revolution.

A great inducement to this undertaking is the fact that there exists to-day no history of the State which can be bought upon the market. Her history can now be studied only in rare works to be purchased only occasionally at high rates in old book stalls.

So much, too, has recently been brought to light from sources inaccessible to former historians that it has become necessary to reconsider and recast much that has hitherto been received as authentic. This we have, perhaps rashly, attempted to do.

A brief review of works in regard to South Carolina, now out of print, will show, we think, the occasion for some substitute for them, and will, we trust, justify the attempt we have made to supply this want.

The first publication in regard to Carolina was one in the nature of an advertisement made by the Proprietors to induce emigration to the plantation or settlement at Cape Fear, begun on the 29th of May, 1664. It is entitled "A Brief Description of the Province of Carolina on the Coasts of Florida." It was printed in London in 1666.<sup>1</sup> In 1682 there were two other such publications; one was by Samuel Wilson, secretary to the Proprietors, which was likewise an advertisement of the advantages of the settlement of Charles Town at Oyster Point. It is entitled "An Account of the Province of Carolina in America, together with an Abstract of the Patent, and several other Necessary and Useful Particulars to such as

<sup>1</sup> Carroll's *Collections*, vol. II, 9.

have Thoughts of Transporting Themselves thither. Published for their information." . . . The other publication of the year 1682 was made by one who wrote under the designation of "T—— A——, Gen't clerk on board her Majesty's ship the Richmond, which was sent out in the year 1680, with particular instruction to inquire into the state of the country by her Majesty's special command, and returned this present year, 1682." The work is entitled "Carolina or a Description of the Present State of that Country and the Natural Excellence thereof," etc. This publication, by Thomas Ashe, is more reliable than that of Samuel Wilson's, inasmuch as it is in the nature of a disinterested report, rather than an advertisement to induce immigration.

The next work is "A New Description of that Fertile and Pleasant Province of Carolina, with a Brief Account of its Discovery and Settling and the Government thereof to the Time, with several Remarkable Passages of Divine Providence during my Time. By John Archdale, late Governor of the Same. London. Printed in 1707." The description of Carolina in this work is very meagre ; and besides the briefest account of its affairs since the settlement of the colony there is little more than a narrative of Archdale's short administration, written apparently to justify his conduct, and to show that he was not responsible for the disturbed condition of affairs which occurred soon after he left the province. His style is exceedingly loose and confused, and the work is too egotistical to be of any great value save for the presence of a few original papers.

The next year, 1708, there appeared a work of considerable pretension published anonymously in two volumes, under the title of "The British Empire in America, Containing the History of the Discovery, Settlement,



Progress and State of the Continent and Islands of America." The first volume was "an account of the country, soil, climate, product and trade of New Foundland, New England, New Scotland, New York, New Jersey, Pennsylvania, Maryland, Virginia, Carolina, Georgia and Hudson's Bay." The second volume contained like accounts of the West India Islands. This work was by John Oldmixon, an author of numerous poems and some historical works. The latter are regarded as dull works, and his bigoted defence of Whig principles and abuse of the Stuarts are not calculated to inspire confidence. Macaulay, Whig as he was, declares that Oldmixon unsupported by evidence is of no weight whatsoever. He was one of the victims of Pope's satire in the *Dunciad*. His account of Carolina in this work is nevertheless the first historical account of the province. True to his character and politics, however, his authorities are all on one side of the religious disputes in the colony. These are avowedly Archdale and Boone, the latter of whom was the leader on that side in all the controversies in regard to the naturalization of the Huguenots and the Church Acts. Oldmixon's account of Carolina will be found republished in Carroll's collections. We shall quote from the original work rather than from Carroll's collections, as we shall have occasion to refer to the volume on the West Indies as well as to that in which he writes of Carolina.

The first work designed as a history of South Carolina—a history of South Carolina only—was that prepared by the Rev. Alexander Hewatt, D.D., published in London in 1779 during the Revolution. It was entitled "An Historical Account of the Rise and Progress of the Colonies of South Carolina and Georgia." Dr. Hewatt, as is well known, was the pastor of the Scotch, now the First Presbyterian, Church, Charleston, from 1763 to 1776.



when he left the province because of his opposition to the pending Revolution. His work was compiled, it is said, with the assistance of Lieutenant Governor William Bull,<sup>1</sup> than whom no better informed nor safer authority could possibly have been found; for, though like Dr. Hewatt a Royalist, and at the time of the publication a refugee in London in consequence, Governor Bull possessed means of information beyond that probably of any other person in the province, he having himself been continuously in public office since 1740, the son of Lieutenant Governor William Bull, who had likewise been in office for many years, and the grandson of Stephen Bull, who had come out with the first settlers on the Ashley the deputy of a Proprietor, and had held offices in succession from the formation of the colony. When, therefore, Dr. Hewatt speaks from tradition he does so from the very best source of information. Access, however, to the records of the State paper office in London, which have since been published, the Shaftesbury papers, some of which were obtained mainly through the exertions of the Hon. William A. Courtenay, and some of which he has presented in the City Year Books of his administration as Mayor of Charleston, and the manuscript public records now in Columbia, show that he was sometimes mistaken, and justify the regret he expressed in his preface "that he was sometimes obliged to have recourse to very confused materials; that indeed his information in the peculiar circumstances in which he stood was often not so good as he could have desired, and even from these he was excluded before he had finished the collection necessary to complete his plan." Dr. Hewatt's work covers the period of the Proprietary Government and that of the Royal to the repeal of the Stamp Act in 1766.

<sup>1</sup> Preface to Ramsay's *Hist. of So. Ca.*

George Chalmers, an antiquarian and political writer of considerable eminence, had visited Maryland in 1763 with a view to settling there ; but espousing the Royalist cause on the breaking out of the American War of Independence, returned to England. Having become nevertheless much interested in the history and establishment of the English colonies in America, and enjoying free access to the State papers and plantation records, he became possessed of much important information, and in 1780 published the first volume of a projected work, entitled "Political Annals of the Present United Colonies from their Settlement to the Peace of 1763." The annals of Carolina are brought down in this volume to the final rejection of the Fundamental Constitutions in 1693. The second volume never appeared. The work as far as it went is the best that was yet written, and contains much valuable and reliable information. This also is republished in Carroll's collections.

Dr. David Ramsay in 1785—two years after the end of the struggle—published his "History of the Revolution of South Carolina from a British Province to an Independent State, in two volumes," and this work in 1789 he followed with a history of the American Revolution ; and in 1809 he published "The History of South Carolina from its First Settlement in 1670 to the year 1808." This last work so far as it relates to the Proprietary and Royal governments is mostly a reproduction of parts of Hewatt's work. He follows that author line after line, and page after page. He appears to have consulted no original documents in its preparation. His first volume is little more than an abridgment and rearrangement of Hewatt's history ; but in the second he has compiled much valuable information in regard to medical, legal, fiscal, agricultural, and commercial affairs, of the arts, of natural history and

literature, and has appended biographical sketches of great interest. The chief value of his work is contained in the second volume.

Ramsay's history of the revolution in South Carolina is valuable chiefly for the number of original documents it preserves, and is quite full so far as it records the transactions of Congress and the movements of the Continental army, but he fails to appreciate the important part acted by the partisan bands in South Carolina during the period in which, after the fall of Charleston and the defeat of Gates at Camden, the State was practically abandoned by Congress as lost. His silence upon the subject is perhaps owing to the fact that during that time he was an exile in St. Augustine, cut off from information of what was passing in the State, and that from the very nature of the important services rendered by those patriots, without a government of any kind — State or Continental — to support them, they were without official records and their deeds dependent for historical preservation upon private memoirs, which had not appeared at the time when Dr. Ramsay compiled his history.

General William Moultrie in 1802 published two volumes, entitled "Memoirs of the American Revolution so far as it related to the States of North and South Carolina and Georgia, compiled from the most authentic materials, the author's personal knowledge of the various events, and including an epistolary correspondence in public affairs with civil and military officers at that period." These volumes are invaluable for the original papers which they contain, surpassing any other history of the times in this respect. The personal letters he gives throw a flood of light upon the state of private opinion of the times, and are scarcely less valuable than the numerous public papers, orders, reports, etc., which are thus preserved. General Moultrie



was a prisoner from the fall of Charles Town, and so, like Dr. Ramsay, was not a participator in the great achievements of Sumter and Marion. In charge, however, under the British authorities of the American prisoners taken in Charles Town, he gives us an account of their treatment, and occasional glimpses of what was passing in the British lines, which he obtained in such intercourse with the British officers as his position allowed or called for. His personal recollections were recorded, however, too long after the events of which he writes to insure accuracy.

In 1812 Colonel Henry Lee, who had commanded the famous legion in the campaigns of 1781 and 1782, published his history, entitled "Memoirs of the War in the Southern Department of the United States." In this work Colonel Lee displays abilities as a writer scarcely less than those of a military commander, which he had so signally displayed during his service in this State. As his greed for fame, however, had laid him open to the accusation of improper conduct in the field, it led him also as an author to assume, impliedly at least, credit to himself for deeds performed by others. His jealousy of Sumter and Marion was very great, — especially of Sumter, — but it was not confined to them. It extended also to Major Rudulph, his next in command in the legion. To secure for himself the honor of receiving the surrender of Fort Grandby in 1781, he is charged with granting improper terms to the British commander in order to hasten the surrender before Sumter, who had hemmed in the British garrison before Lee's arrival, could return from a dash upon Orangeburg. The taking of Fort Galpin he leaves to be inferred as having been accomplished by himself, when it was the achievement of Major Rudulph, and at which he was not even present. He describes the battle of Quinby's Bridge as if fought by him, without mentioning the



fact that General Sumter was present and in command. Colonel Lee's memoir is nevertheless a most able, important, and valuable work. It was republished and edited by his distinguished son, General Robert E. Lee, in 1870, under the briefer title of the "Memoirs of the War '76," and is so cited in this work.

In 1816 Mason L. Weems, of Maryland, claiming to be an Episcopal clergyman, his ordination as such, however, being, at least, doubtful, but who did, nevertheless, officiate at Pohick Church, near Mount Vernon, in the time of General Washington, wrote a life of General Marion, which he published as the joint work of General Peter Horry and himself. General Horry disclaimed the honor. Weems was a man of no character, but became famous as an author and travelling book agent for Mathew Carey. An Episcopal clergyman, as he claimed to be, he knew no distinction of churches, but preached in every pulpit to which he could gain access, and from each of which he recommended his books. He carried a fiddle on his drumming tours, and when he could find no pulpit from which to cry his books he gathered a crowd by that instrument. He nevertheless wrote in a most popular style, and his *Life of Washington*, published in 1800, went through forty editions. His *Life of Marion* has probably gone through as many and is still republished. These works, says Bishop Meade, have been probably more read than those of Marshall, Ramsay, Bancroft, and Irving put together. Hence it is that Marion's name is to be found all over the United States in the nomenclature of towns and postoffices. As historical works these books are absolutely valueless and full of ridiculous exaggerations and false statements. The best that can be said of them is to call them historical romances.<sup>1</sup>

<sup>1</sup> See *Old Churches, Ministers, and Families of Virginia*, Bishop Meade, 2 vol., 233; Allibone's *Critical Dic. of English Literature*. And

The appearance of Weems's fanciful tale, besides giving fame to Marion which he fully deserved upon better grounds than that of his idle story, had the beneficial effect of calling forth a most admirable and authentic work upon the subject by Major William Dobein James, of Marion's brigade, published in 1821. The only allusion, however, which Major James makes to Weems's book is the statement, in his preface, that the original of the correspondence between General Greene and General Marion had been left by General Horry with Weems; "but it appears," James observes, that "he made no use of them."

The two volumes entitled "Sketches of the Life and Correspondence of Nathaniel Greene, etc., by the Hon. William Johnson, Justice of the Supreme Court of the United States," published in 1822, besides a brief but excellent sketch of the settlement of the province, contains altogether the best account of the war of the Revolution in South Carolina. Unfortunately, however, Mr. Justice Johnson, in his zealous advocacy of the hero of his work, became, we think, misled into attributing to him the credit for the redemption of the State, at the expense of Sumter and Marion, and their heroic followers. To repair this unintentional injustice of both Ramsay and Johnson shall be our earnest effort, if in the publication of this volume we shall find sufficient encouragement to pursue the work and life, and time shall allow. If so, we shall attempt to correct the impression and to show to how great an extent the ultimate results of the whole revolutionary struggle in the country was dependent upon the

yet it is such a work as Weems's Life of Marion that is gravely cited as authority upon the subject of Education in South Carolina in the Report of the Commissioners of Education of the United States for the year 1893. See vol. I, 392.

operations of the partisan bands of South Carolina and her two neighboring States — operations conducted without military commissions to require or sanction them. We shall undertake to show that it was to these voluntary uprisings of the people of South Carolina, with the assistance of their friends in North Carolina and Georgia, that the whole of the enemy's plans were foiled, frustrated, and broken up, and the grand culmination of Yorktown rendered possible ; and then we shall critically examine the relative claims of Greene and Lee, of Sumter, Marion, and Pickens, to the glory of this achievement.

We venture to believe that the record we shall present will show that no one of the thirteen original States of the Union suffered so severely in the war of the Revolution as the State of South Carolina ; that in no one was there so much actual warfare ; in no one was there such an uprising of the people ; in no one was so much accomplished for the general cause — and that with so little assistance.<sup>1</sup>

In the same year that Judge Johnson published his

<sup>1</sup> A chronological list of battles, actions, etc., is given in an Appendix to a work entitled *Historical Register of Officers of the Continental Army during the War of the Revolution, April, 1775, to December, 1788*, by F. B. Heitman, Washington, 1893. This list gives the names of 315 battles, etc. Of these 89 took place in the State of New York, 54 in South Carolina, 34 in New Jersey, 24 in Georgia, 21 in North Carolina, 15 in Canada, 15 in Massachusetts, 14 in Connecticut, 14 in Virginia, 13 in Pennsylvania, 5 in Rhode Island, 3 in Delaware, 3 in Indiana, 2 in Vermont, 1 in Maine, 1 in Nova Scotia, 1 in Florida, 1 in Chesapeake Bay, 1 in Lake Champlain, and 3 elsewhere. In a table prepared by the author of this work he has a list of 130 battles, engagements, etc., which took place in South Carolina, including, of course, the smallest affairs, but, on the other hand, including as but one the siege of Charleston, which lasted forty days ; the siege of Ninety-Six, which lasted twenty-seven days, etc. His tables show that there was actual fighting in every county in the State as present organized but three, and that these three were traversed by both armies.



work there appeared Dr. Alexander Garden's "Anecdotes of the Revolutionary War in America, with Sketches of Character of Persons the Most Distinguished in the Southern States for Civil and Military Services." The title of this work is an injustice to its historical character. It is really a series of most valuable biographical sketches. The popular title by which it is known, "Garden's Anecdotes," would not lead one to consult it for the valuable historical information which it contains. The anecdotes proper which it relates are but a small part of the work. Authentic sketches and incidents of the Revolution form by far the greater part.

Besides the numerous published works upon the subject of the Revolution, British and American, which we have been able to consult, too numerous to mention, we have been so fortunate as to have had access to two volumes of manuscript letters and papers of General Sumter, containing all of General Greene's letters to him, and also to copies of his letters to General Greene, few of which have yet been published. This correspondence, together with that published by Major Henry Lee, the son of Colonel Henry Lee, in his work entitled "Campaigns in the Carolinas," 1824, written in answer to Mr. Justice Johnson's claims in behalf of General Greene, throw great light upon the subject, and we think will be found to sustain the position we shall take in regard to the relative merits of the services of these distinguished men.

In 1802 Governor John Drayton published under the title of "A View of South Carolina" a brief, but most valuable, treatise relating to the interior economy and material resources of the State, containing important statistical information. To this he added, in 1821, two volumes of Memoirs, compiled principally from the papers of William Henry Drayton, his distinguished father, in which



he has preserved important original material, chiefly relating to the years immediately preceding the Revolution.

In 1820 the Rev. Frederick Dalcho, M.D., compiled his church history. It is entitled "An Historical Account of the Protestant Episcopal Church in South Carolina," etc., but it is far more than a history of the Church of which he writes. It is full of the most important information in regard to the province generally and is entirely free from sectarian bias.

Mills's Statistics of South Carolina, etc., published in 1826, was intended, as the author states in his preface, as an appendix to his great work, the "Atlas of the State." It is full of curious and interesting information; unfortunately, however, it is not so reliable historically as his atlas, which must ever remain the basis of every subsequent work. His statistics are unquestioned and supply a want in the history of the State. Historically, however, he is inaccurate. His list of the Proprietary and Royal Governors, which is usually followed, is incorrect, as he makes no distinction between the Governors and Lieutenant Governors, presidents of council or others acting ad interim. There were no natives of Carolina Governors under the Royal rule.

Hewatt cites no authorities in his work, and indeed appears to have had access to few original papers, and, as we have observed, Ramsay added nothing in this line; it remained for Mr. B. R. Carroll, in 1836, to give to the State the first collection of original documents relating to the Proprietary and Royal Governments. It is difficult to estimate the value of this contribution to the study of the history of the State in the two volumes published. His compilation is entitled "Historical Collections of South Carolina, Embracing Many Rare and Valuable Pamphlets and Other Documents Relating to

the History of the State from its Discovery to its Independence in the Year 1776." The first of these volumes contains a republication of Hewatt's History. The second is the most valuable as containing the original papers upon which much of the history of the province must depend.

William Gilmore Simms, the poet, novelist, and historian of the State, in 1840 produced a volume originally conceived with the view to the instruction of an only daughter in the history of her birthplace. His purpose, he tells us in the preface to the last edition of the work, was to present something more than an abridgment of the previous cumbersome volumes relating to the history of the State in a cheap and popular form. He made no original research; but accepted the statements of Hewatt and Ramsay, endeavoring only to simplify and popularize the style of their story. His history, so prepared, has gone through several editions, 1840, 1842, 1860, but is now out of print. The historical reputation of the author does not, however, depend upon his professed history, but rather upon his historical novels. It is in these that Mr. Simms has brought out the strong individuality of the Carolina character as it impressed itself upon the struggle of the Revolution, "and developed into that unique partisan warfare so bold in its conception, so brilliant in its performance, so triumphant in its results." "And I cannot refer to this glorious portion of our history," observes one of the most distinguished sons of Carolina, the Hon. William Henry Trescot, "without acknowledging the debt which I think the State owes to one of her most distinguished sons for the fidelity with which he has preserved its memory, the vigor and beauty with which he has painted its most stirring scenes and kept alive in fiction the portraits of its most famous

heroes. I consider Mr. Simms's partisan novels as an invaluable contribution to Carolina history."<sup>1</sup>

In 1851 Joseph Johnson, M.D., published a volume of "Traditions and Reminiscences Chiefly of the American Revolution in the South, including Biographical Sketches, Incidents, and Anecdotes," etc. This is as it purports to be a volume of traditions and reminiscences. It does not assume to be a connected history, nor to be taken from original sources. The traditions which the author gives are sometimes, therefore, found to be incorrect, as traditions in their details often are, but the volume has nevertheless preserved many most valuable loose papers, and has rescued from oblivion and preserved many most important and interesting incidents. Especially so in regard to the upper country. Its great value, like that of the second volume of Ramsay's History, is in its biographical sketches and Revolutionary incidents.

In 1853 R. W. Gibbes, M.D., published a volume of "Documentary History of the American Revolution, Consisting of Letters and Papers Relating to the Contest for Liberty. Chiefly in South Carolina in 1781 and 1782, from originals in the possession of the editor and from other sources." Dr. Gibbes says in his preface that the series of letters collected by General Peter Horry, which he published, had been in the hands of Weems, Garden, and Simms, who have each written a life of Marion. To these he has added a few letters, which he selected from Tarleton's Memoirs, Ramsay's Revolution in South Carolina, Johnson's Life of Greene, Lee's Memoirs and Lee's Campaign of 1781. The original letters to and from Greene, Sumter, and Marion, and of Governor Rutledge, etc., are of the greatest historical value. In 1855 Dr. Gibbes fol-

<sup>1</sup> Oration of Hon. William Henry Trescot before the South Carolina Historical Society, May 19, 1859, *Coll. Hist. So. Sc.*, vol. III, 20.



lowed this volume with a second, and in 1857 with a third, bearing the same title, composed chiefly of original papers; the second relating to the early period of the Revolution, and the third to the later. The two last are quite as valuable as the first.

In 1856 Mr. Plowden C. J. Weston printed for private distribution a volume entitled "Documents Connected with the History of South Carolina." These documents are five in number. The first two, viz. "The Land Travels of David Ingram, 1568-9," and the "Letters of Capt. Thomas Young," etc., 1634, relate but indirectly, if at all, to the history of Carolina. The other three are very important. They are : (1) "Governor Glen's Answers to the Lords of Trade," which are evidently the original of a tract entitled "A Description of Carolina," etc., published in London, 1761, and reprinted in Carroll's collection ; (2) "The Letters of Richard Cumberland, Esq., to Roger Pinckney, Esq., his Deputy, with Regard to the Provost Marshalship of South Carolina," and (3) "De Braham's Philosophico-Historico-Hydrogeography of South Carolina, Georgia, and East Florida."

The State owes a debt of deep gratitude to these collectors of historical material, but no less is due to Professor William James Rivers for the first standard work upon her history. In 1856 Professor Rivers, then of the South Carolina College, published "A Sketch of the History of South Carolina to the Close of the Proprietary Government, 1719, with Appendix Containing Many Valuable Records." This history is compiled from original documents, and the authorities upon which he relies for his statements are all given. Its accuracy has recently been severely tested by the publication of the Colonial Records of North Carolina, many of which records of the time of the Proprietary Government are really the records of this



province, and, in the main, incidentally only to North Carolina—and also by the manuscript recently obtained by this State from the State paper office in London. This test has sustained the accuracy of Professor Rivers's work, and vindicated his conclusions to a remarkable degree.

Professor Rivers has made other most valuable contributions to the History of the State, Topics on the History of South Carolina, Chapters on Colonial History, etc.

The "Collection of the Historical Society of South Carolina," the publication of which was begun in 1857, but which, from the late war and various causes, have been impeded, contain a vast amount of information, and are invaluable to the student. The original documents are all important: but the great value of the work consists in the "List and Abstract of Documents Relating to South Carolina now Existing in the State Paper Office, London," prepared for the Society by their agent, the late W. Noel Sainsbury, assistant keeper of the public records; the Records of Council of Safety in the beginning of the Revolution; and Mr. Laurens's narrative of his capture and imprisonment in the town from 1780 to 1782.

In 1858 the Hon. John Belton O'Neal, Chief Justice of the State, published a small volume entitled "The Annals of Newberry," in which much information in regard to the settlement of that district (now county) is given. The next year, 1859, the first volume of a proposed History of the Upper Country of South Carolina, by John H. Logan, appeared. It is deeply to be regretted that the war, and Mr. Logan's subsequent death, should have put an end to this admirable work, which promised to be of such great value to the State. The volume published is full of the most curious information. In 1867 the "History of the Old Cheraws," by the Rt. Rev. Alexander Gregg, D.D., was published. This work contains an account of

the aborigines of the Pee-Dee, the first white settlements, their subsequent progress, civil changes, the struggle of the Revolution, and growth of the country afterward, from 1730 to 1810, with notices of families and sketches of individuals. It offers the most complete history of a given section of the State to be found. In 1870 the Rev. George Howe, D.D., professor in the Theological Seminary, Columbia, South Carolina, published a "History of the Presbyterian Church in South Carolina." This volume is a mine of information in regard to the settlement of the upper part of the State. It contains much new matter in regard to the lower country also; but its chief value is in the material the reverend author has collected about the settlements of the other section. He has done very much to supply the work upon which Mr. Logan was engaged. It is not without its significance that the two Church histories, Episcopal and Presbyterian, should embody so much that is of interest and value to the State at large.

In 1891 the General Assembly of the States provided for the appointment of a commission of five citizens to be known as "The Public Record Commission of South Carolina." The records now known as the Shaftesbury papers, the transcripts of which aggregate about a thousand closely written cap-size pages, remained in the family of Sir Ashley Cooper for two centuries. The late Earl about twenty years ago deposited these original documents in the Public Record office in London. These papers were at once classified, catalogued, and made accessible to the public. In preparing the address in 1883 on the occasion of the "Centennial of Incorporation of the City of Charleston," the Hon. William A. Courtenay, then mayor of the city, had sent him through Mr. Sainsbury some of the earliest letters and other documents which

he used upon that occasion. The names of the colonists who came out in the *Carolina* under Governor Sayle were first published in that address. Impressed with the importance of the partial information thus obtained, he suggested to the City Council to secure transcripts of the remaining papers. This was done, and subsequently these earliest records of South Carolina were deposited with the South Carolina Historical Society, accompanied by an appropriation to promote their publication. The General Assembly of the State also contributed to the same purpose, and these valuable records are now in press and will shortly appear. Mayor Courtenay has for two decades been an active worker in State history; during his mayoralty he edited and published eight octavo volumes of municipal department reports, with an appendix to each volume of original historical papers. These appendices contain in all twelve hundred pages of interesting and valuable material not accessible elsewhere. His Centennial Address, subsequently revised and enlarged at the request of the City Council, contains the only connected sketch of the history of Charleston in print. The church histories prepared especially for his Year Books are full of local information of value. In the Cartography of South Carolina there are twenty-four maps, from the first ever drawn of dates 1672 down to later years. The most of these are rare and difficult to purchase even at high prices. Each map has been reproduced in fac-simile from originals, and together form a most desirable cartographical collection. In 1890-91 Mayor Courtenay originated a plan for procuring transcripts of all the papers relating to South Carolina in the London record office, and was chiefly instrumental in obtaining the passage of an act creating the Public Record Commission of South Carolina. This commission consisted of the Hon. J. E. Tindall, Secretary



of State, *ex officio* chairman, the Hon. Henry McIver, Chief Justice, Hon. William A. Courtenay, Hon. W. C. Benet, and Professor R. Means Davis, whose duty it was made to procure transcripts of such documents relating to the history of South Carolina as they might deem necessary or important, and appropriations were made for the purpose. The commission immediately upon its appointment chose Mr. W. Noel Sainsbury, who was then retired from his official position in England, as the agent of the State for the purpose of procuring transcripts of every paper relating to the province and colony of Carolina from the date of the first charter of the Lords Proprietors, 1663, to the overthrow of the Royal Government, in 1775. In the three years since the commission has received and placed in the office of the Secretary of State thirty-six volumes of manuscript colonial records and fifteen hundred pages of missing journals of the Commons House of Assembly. These volumes, together with the colonial records of North Carolina, obtained from the same source and published by that State, and the Shaftesbury papers, copied for the City Council of Charleston, in 1883, under the direction of Mayor Courtenay, deposited with the South Carolina Historical Society, and just now about to be published, with the papers published as appendix to the work of Professor Rivers's Historical Sketches of South Carolina, present nearly, if not every, paper of public interest relating to the early history of the province. The manuscript volumes thus obtained by the commission have been entitled by them "Public Records," and will be so quoted in the following work.

A great revival of interest in colonial history has recently taken place all over the country, and renewed attention is given to that of each of the old thirteen States. In this study the history of this State is receiv-

ing its full share. In the series of studies instituted by the Johns Hopkins University in historical and political science three volumes have been issued relating to South Carolina.

The first of these is one by B. James Ramage, A.B., entitled "Local Government and Free Schools in South Carolina," first part read before the Historical Society of South Carolina, December 15, 1882. It is composed of two short essays, in the first of which the author traces very briefly the history of the organizations of the parish, district, and county, and in the second that of the free schools. It is to be regretted that the limits which the author prescribed for himself did not permit a further investigation into these interesting subjects—a regret the more felt because of the excellent treatment of them as far as he has gone.

The second of these is one by Shirley Carter Hughson, entitled "The Carolina Pirates and Colonial Commerce, 1670–1740" (Twelfth Series, V, VI, VII), 1894. The title to this volume we think misleading. There were few or no "Carolina Pirates." Pirates infested the Carolina coast. When their nest in New Providence was broken up in 1718 by the British Government, they sought refuge in the Cape Fear and other less commodious harbors on the coast, and from these points they carried on their depredations. But these pirates were as much enemies of the people of Carolina as the Indian savages in the woods behind our colony. While, however, we differ from the author in some respects, we recognize the thoroughness of his work, and admire his graphic descriptions of the actions between the Carolina forces and these formidable buccaneers. Mr. Hughson's story of these pirates and of the manner in which they were met, beaten, and destroyed by Colonel Rhett and Governor Robert Johnson

is well told and full of romance. We shall follow closely his statements of facts in regard to them.

The other volume, published by the Johns Hopkins University, is one by Professor Edison L. Whitney, Ph.D., LL.B., professor of history, Benzonia, Michigan. This monograph, the author says, aims to give a description of the Government of South Carolina during the colonial period from the constitutional point. The author states in his preface that the foot-notes have been made more numerous than was necessary in order to show to the reader where to turn for fuller information, rather than to furnish authorities for statements in his work. This, we think, is unfortunate, for in such a work the most important purpose of such notes is to give the authority upon which the historian relies for his statements, and in this work the authorities given in the notes do not always, we think, bear out the statements of the text. The author has undoubtedly given much patient research to his subject and has consulted a number of authorities to which he refers. His difficulty has been that in pursuing "the special method" which he has adopted, rather than a chronological order, he has at times lost the historical connection which is necessary in order to understand the provisions of the law he cites. He has attempted to evolve a system from the letter of the statute without reference to the circumstances under which it was passed or to the question whether it was indeed actually put in operation.

He has also fallen into the serious error of stating that while Lieutenant Governors were frequently appointed in the islands, they were seldom on the Continent, and that Colonel Broughton was the only Lieutenant Governor commissioned in South Carolina. This is altogether a mistake. Lieutenant Governors were often appointed on the Continent. They were so appointed in New York,



Maryland, Virginia, the Carolinas, and Florida. Lieutenant Governor Broughton, who succeeded to the administration of the government upon the death of Governor Robert Johnson, May 3, 1735, died on the 22d November, 1737, whereupon, no Governor having yet been appointed by his Majesty in the place of Governor Johnson, William Bull, the son of Stephen Bull, the emigrant, succeeded to the administration as President of the Council, but on the 3d of June, 1738, was appointed Lieutenant Governor, and so continued until his death, 23d May, 1755, a period of seventeen years. His son, William Bull, who had been Speaker while his father was Lieutenant Governor, was commissioned Lieutenant Governor in 1759, and so continued until the overthrow of the Royal Government in 1775, a period of sixteen years. The father and son thus being Lieutenant Governors thirty-three years. Neither father nor son was ever Governor. The list of Royal Governors, given in Appendix II to the work, following that prepared by Mills, is incorrect. Arthur Middleton was never Governor. He was "President of the Council," and as such administered the government during the absence of Governor Nicholson. He was addressed as "President and Commander-in-chief." The first Lieutenant Governor Bull's administration was between the death of Governor Johnson and the appearance in the province of Governor Glen (five years after his appointment). He continued as Lieutenant Governor for twelve years, during Governor Glen's commission, and after, until his death. The second Lieutenant Governor Bull held his commission through the administrations of Governors Lyttleton, Boone, Lord Charles Greville Montague, and Lord William Campbell. Neither was deputy to any particular Governor, but held his office independently of the Governor's tenure.

The Governor was addressed as "His Excellency"; the Lieutenant Governor, even though administering the government, was but "His Honor."

This error of the author touches upon a material point in the Colonial history of South Carolina. It was one of the grievances of the colonists that none of them could ever hope to receive the highest appointments in the province. These were reserved for placemen from England. Broughton and the Bulls, however well they might administer the government in the absence of a Governor, could never aspire to be more than Lieutenant Governors; Charles Pinckney, however learned as a lawyer, could hold the office of Chief Justice only until it suited the convenience of the Royal Government to bestow it upon some disappointed favorite at Westminster. The colonists resisted the ignoring of Pinckney's appointment by the local government as Chief Justice in the place of Graeme, deceased, and the sending out Mr. Peter Leigh, a discredited English barrister, instead. They were especially urgent that William Bull, the younger, should receive the appointment of Royal Governor to succeed Lord Montague, and the appointment of Lord William Campbell instead was perhaps one of the influences which turned the scales of the Revolution in South Carolina.

Among the contributions to Educational History, edited by Herbert B. Adams and published by the bureau of education of the United States, is a very able monograph, in 1889, entitled "History of Higher Education in South Carolina, with a Sketch of the Free School System," by Colyer Meriwether, A.B., Johns Hopkins University. In this sketch is traced the development of the free or public school system of the State. The earliest educational efforts are described and instances are given illustrating the interest of South Carolina, when yet a colony, in providing the means for the intellectual

improvement of her sons. To this volume is added as an appendix a republication of a paper read before the Historical Society of South Carolina, August 6, 1888, by Edward McCrady, Jr., entitled "Colonial Education in South Carolina"—a refutation of the charge made by Mr. McMaster, in his History of the People of the United States, of the neglect of education in South Carolina prior to and during the Revolution.

The present volume will be restricted to the history of South Carolina during the Proprietary Government, *i.e.* from the settlement of the colony under the Royal charter to the overthrow of the Proprietors' rule, in 1719, a period of fifty years. A very brief review will be taken of the first explorations of the coast and the attempted Huguenot colony under Ribault. We shall more critically examine the exegesis of the charters under which the colony was founded, and the famous Fundamental Constitutions of Locke, which the Proprietors so persistently attempted to impose. We shall trace the progress of the colony from the arrival of the first adventurers and their settlement at Old Town on the Ashley; its removal to Oyster Point, the present site of the city of Charleston, and its gradual extension; the peopling of the province from different sources, and the peculiar influences upon its development of the Barbadian and Huguenot elements of the population. We shall tell of the struggle between the Proprietors to enforce the extraordinary system devised by Locke, and the successful resistance of the people under the *lex scripta* of the charters. Then we shall follow the contest over the Church Acts involving the naturalization of the Huguenots, resisted by the dissenters because of the affiliations of those people with the churchmen. These commotions we shall see to have had their origin in the mother



country, and to have been intimately connected with the purposes of political parties there. The devolution of the titles of the Proprietary shares in the province by deaths and assignments we shall observe materially affecting the affairs of the colony.

We shall tell of the contests of the colonists with the Spaniards, the French, the Indians, and the pirates — how well they maintained the outpost so necessary to the claim of England's dominion on the American Continent, and how firmly and bravely they met the pirates, constituting, at the time, a power which defied the distant governments of Europe, and preyed upon the colonial commerce — how vigorously and sternly they brought those enemies of the human race to judgment and inflicted upon them the extreme penalties of the law.

Despite political turmoil, hurricane, pestilence, and fire, the tomahawk of the Indian, and the sword of the French and Spaniard, we shall find the colony gradually developing from an emigrants' camp to social order and settled government, and carrying on successfully at their extreme end of the line of English colonies the experiment of representative government. We shall find them laying the foundation of great fortunes, building churches, quarrelling over religion, but withal strenuously maintaining it, and curiously mixing Puritan fanaticism with High Church dogma, founding schools and libraries, and laying so broad and deep the foundations of jurisprudence that that structure has continued to this day to rest upon the code of laws adopted in 1712.

Then we shall have to tell of the revolution encouraged, if not indeed instigated, by the Royal Government in England, by which the Proprietary Government was overthrown, and the province of South Carolina taken under the immediate government of his Majesty, King George the First.

## CHAPTER I

CHRISTOPHER COLUMBUS accepting the theory of the roundness of the earth, in 1492 sailed westward, assured that unless he discovered some new country in the yet unexplored seas he must reach the Indies, the easternmost limits of the known world. Upon his discovery of the islands which he supposed to be the Indies, he returned to Spain with the great tidings, and Pope Alexander VI generously bestowed the new countries upon the Kingdoms of Leon and Castile, on the condition that they should labor to extirpate idolatries and plant the holy faith in the New World. In his second voyage, in 1493, Columbus discovered more islands and coasted along a part of South America. In his first voyage his course had been diverted by the flight of birds to the southwest—and never, it has been said, had a flight of birds such important consequences. This southerly direction Columbus and his followers continued to pursue, and so it was that the northern continent escaped their knowledge.

Had the course of Columbus not thus been deflected, he would have entered the warm current of the Gulf Stream, have reached Florida, and thence perhaps been carried to the coast of Carolina or Virginia. The result would probably have been, as it has been observed, that the territory of the present United States would have been given a Roman Catholic Spanish population instead of a Protestant English one—a circumstance of immeasurable im-

portance.<sup>1</sup> As it happened, the only foothold the Spaniards obtained in this territory was in Florida, and the only English colonists with whom they came in contact and collision were those in Carolina. In the year 1496 John Cabot, a Venetian then in England, perceiving by the globe, as he thought, that the islands found by Columbus stood almost in the same latitude with England, and much nearer thereto than to Portugal and Castile, obtained from King Henry VII two ships and three hundred men, with which he embarked upon a voyage of discovery of his own. He sailed westwardly, discovered Newfoundland, and coasted along the shores of North America, Salvano says, till he came to 38 degrees towards the equinoctial line—that is, somewhere off the coast of Virginia, and from thence returned to England. “There be others,” he adds, “which say that he went as far as the Cape of Florida which standeth in 25 degrees.”<sup>2</sup> Columbus was diverted to the south by the flight of birds. Sebastian Cabot, upon the death of his father, like Columbus, seeking a way to India, ascended Hudson’s Bay, and pressed on among icebergs until the mutiny of her crew compelled him to turn back. Thus it was that the first discoverers of America, seeking a way to India, turned aside from the great Continent, the one to the tropics, and the other to the Arctic regions.

In 1495 the Spaniards had established themselves upon the Island of Hayti or Hispaniola, which became the seat of their great power in the Western Hemisphere. It was not, however, until seventeen years later that they became aware of the Continent so near them on the north. In 1512 Juan Ponce de Leon discovered the mainland of Florida on Easter, *Pascha Floridum*, the supposed deri-

<sup>1</sup> John Nichol, LL.D., *Encyclopædia Britannica*, “America.”

<sup>2</sup> Hakluyt’s *Voyages*, Supplement, 17, 18.



vation of the name. He landed, it is said, at a place called the Bay of the Cross, a few miles north of the site of St. Augustine, took possession, and erected a stone cross in sign of the jurisdiction of Spain. This was to be the place of the first European settlement on the Continent of America, and was to be the source of numerous woes to the English colonists of Carolina.

The first Europeans who trod the soil of Carolina were Spaniards who sailed in 1520 from Hispaniola, seeking in the Lucayos or Bahama Islands a supply of Indians to take back with them to work as slaves in their gold mines, a third part of the nation of Hispaniola having perished within three years after the Spaniards took possession of the island. Two vessels fitted out by Lucas Vasquez de Allyon for this purpose, driven by tempest, more by chance than with any design of discovery, reached the coast about the latitude of 32 degrees. The adventurers entered a bay, a cape of which they named St. Helena, and a river in its vicinity they called the Jordan.<sup>1</sup> Though the Spaniards had now been at St. Augustine for eight years, the natives of the region do not appear to have known of their presence. When, therefore, the Spanish vessels made to the shore, the natives, astonished as at a miracle, thought some monster had come among them—they never before having seen a vessel. They fled upon the approach of the vessels, but two swift and nimble young Spaniards overtook a man and woman and brought them to the ship. Clothing and loading these with presents and sending them back, the Spaniards gained

<sup>1</sup> Rivers, after a close examination of the accounts of early voyages, old maps, and charts, is not prepared to admit that the "Jordan" is the Combahee, as most writers assert, but concludes that the "Jordan" could not have been far from the Savannah. *Hist. Sketches of So. Ca.* (Rivers), 15.

the confidence of the Indians, and were kindly treated by them. After some stay on the coast and a partial examination of the country, the Spaniards enticed the Indians, whose confidence they had gained, on board their vessels, and when their decks were crowded they suddenly drew up their anchor and unfurled their sails, carrying off to a wretched fate the guests they had received with all the appearances of friendship. One of the vessels on its return foundered at sea, and all on board perished. Many of the captives on the remaining vessel, pining with grief, refused to take food and died before the end of the voyage. Of those who survived, most languished in their bondage and sank under their sufferings. The rest became too feeble for the mines and were distributed among the people of Hispaniola as domestic servants or in the lighter tasks of husbandry.

The countries around the bay into which the ships of Vasquez had entered on the one side were called Duharhe or Gualdapé, and on the other Chicora.<sup>1</sup> Vasquez, who was a citizen of Toledo, a licentiate, professor of judicature, one of the senators of Hispaniola, returning to Spain to procure leave to plant a colony, took with him as a servant one of the Chicoranes, whom he had baptized, giving to him the Christian name Francis and the surname of Chicora. Peter Martyr in his history of the New World says that he sometimes had both Vasquez the master and Chicora his servant as his guests, and retails the most extraordinary stories which they told concerning the inhabitants of Chicora and Duharhe, especially of the latter country, whose inhabitants they said were white, and had a king of giant-like stature and height, called Datha,

<sup>1</sup> Rivers calls attention to the mistake made by several authors in giving the name of Chicora to the whole of this country, and not merely to a part of it, as in the text.

and that the queen his wife was not much shorter than himself. Martyr was not, however, inclined to accept these wonderful tales told by Vasquez, "nor did Francis the Chicorane, who was present," he observes, "free us from that controversie."<sup>1</sup> Indeed, as Rivers observes, the captive seems to have acquiesced in any story his master made.<sup>2</sup>

In the year 1524 Vasquez made another voyage to the coast of Carolina; but the true events of the expedition are not certainly known.<sup>3</sup> It is believed that he reached in safety the place which he had before visited, that one of his vessels was stranded, and that a number of his men whom he sent ashore perished by the hands of the natives — a just retaliation for his treacherous conduct in the previous expedition.

The failure of this expedition and the equally disastrous fate of Narvaez and of De Soto and their companions disheartened the Spaniards, and their abandonment of the country for forty years left it open to exploration and occupancy by adventurers from other European states.

In January, 1524, Giovanni Verrazzano set out on a voyage of discovery in behalf of Francis I of France.<sup>4</sup> He reached the Continent 34 degrees north latitude, and searching for a harbor landed probably in the neighborhood of Cape Fear. He returned to France in July of the same year. Upon this discovery and those made in Canada, the French claimed the greater part of North America under the title of New France; but civil and religious wars at home distracted at the time their attention from

<sup>1</sup> Hakluyt's *Voyages*, Supplement, 620, 621.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 16.

<sup>3</sup> Hakluyt's *Voyages*, Supplement, 33; *Hist. Sketches of So. Ca.* (Rivers), 17.

<sup>4</sup> Hakluyt's *Voyages*, vol. III, 295; *Hist. Sketches of So. Ca.* (Rivers), 18.



the New World. Thirty odd years after, Coligny, admiral of France and leader of the Huguenot party, obtained permission from Charles IX to establish a colony of Protestants in New France. Jean Ribault was sent out in command of two of the King's ships and a company of veterans, together with many gentlemen who joined the expedition, to discover a suitable place for the colony.<sup>1</sup>

The course of navigation from Europe to America had continued to follow the direction given to it by Columbus, by way of the Spanish Islands in the West Indies, but Ribault ventured directly across the Atlantic, and on the 30th of April, 1562, reached the Continent in 30 degrees north latitude. He landed at a river he called May, because he discovered it on the first of the month of that name, but it is now known as the St. John's River in Florida. From this point Ribault sailed along the coast towards the north, looking for the River "Jordan," which the Spaniards had visited forty years before; and on the 27th of May he cast anchor in a depth of ten fathoms, at the opening of a spacious bay, which from cape to cape was three leagues wide and formed the entrance to a noble river, which he named Port Royal.

Charmed with the magnificent forests, the stately cedars, the wide-spreading oaks, and fragrant shrubs, they explored the adjacent country; they sailed up the Broad River, and passed probably through Whale Branch uniting with the Coosaws.<sup>2</sup> The Indians fled at first upon the approach of the French, but their timidity was soon overcome by the sight of various articles of merchandise, and they were encouraged by friendly gestures; in their turn they brought presents of deerskins, and baskets made of palm leaves, and a few pearls. They built an arbor of

<sup>1</sup> Hakluyt's *Voyages*, vol. III, 308-319.

<sup>2</sup> *Hist. Sketches* (Rivers), 22.

boughts to shelter their visitors from the heat of the sun and sought with manifest good will to induce Ribault and his party to remain with them. This kindness of the natives Ribault returned by an attempt to capture some of them for the purpose of carrying one or two to France, in accordance with the command of the Queen, as Verrazzano and Vasquez and Columbus had done before. For this purpose he had induced two to accompany him to his ships, but when they perceived that they were to be carried away they escaped, leaving all the gifts they had received.

Ribault then proceeded to take possession of these regions in the name of his king and of his country, and erected a stone pillar engraved with French armorials upon a hillock on an island which is believed to be that now known as Lemon Island, about three leagues up Broad River.<sup>1</sup> Leaving twenty-six of his followers, who volunteered to remain under Captain Albert de la Pierria, whom he appointed to command them, Ribault returned to France to report to Admiral Coligny what he had accomplished and to procure further aid in establishing a permanent settlement.

On the 11th of June, 1562, Ribault and his companions took leave of his garrison and fired a salute to Fort Charles, as they had named the fort they had built, and from whose battlements the flag of France first waved in North America. Ribault arrived in France on the 20th of July, after an absence of five months. He entertained no fear of danger to the small garrison he had left at Fort Charles; but the civil war breaking out in France, his return was delayed.

The natives in the neighborhood of Port Royal were disposed to be very friendly to the French, and the garri-

<sup>1</sup> *Hist. Sketches (Rivers)*, 24.

son maintained their friendship by presents of knives, hatchets, clothing, toys and trinkets, and the still more efficacious influence of the Indian dread of their firearms and superior deadly weapons. But the Indians were improvident, planting no more corn than would serve for one season. The safety of the garrison depended, therefore, on their own tilling of the fertile lands adjacent to the fort and laying in a supply of food, for which they had ample time, but with the unthrifty habits of soldiers they were as improvident as the Indians. When, however, their provisions first began to run short they were abundantly supplied by a powerful Indian chief named Ovade, whose friendship they had won ; but through their carelessness the provisions thus obtained were accidentally burned. Ovade again came to their assistance, and assured them that as long as he could aid them they should not want. He gave them also some pearls, and silver ore which he said could be found among the mountains toward the north at a distance of ten days' travel. The wealth of the mountains of Northwestern South Carolina and Western North Carolina, which is just now being opened, thus appears to have been known to the Indians at that time.

But the greatest troubles of the garrison left by Ribault were at hand. Captain Albert was a man of imperious temper and rigid in the discipline which he attempted to enforce, while, on the other hand, the privations to which the soldiers were reduced rendered them less subordinate. Albert grew more stern and harsh. A drummer was executed, and another of the garrison banished to an island three leagues from the fort. Upon this the garrison broke into open mutiny, murdered Albert, and bestowed the command upon Nicholas Barré.

Despairing of the return of Ribault, the garrison began to seek the means of venturing upon the ocean in an



attempt to return to France. They had carpenters among them, and a forge and iron and tools. What they needed most were sails and cordage. Resin they procured from the pine, and moss from the oak, with which they calked their vessel. They turned their shirts and sheets into sails, and their Indian friends taught them to make cordage from the inner bark of trees. Unfortunately while taking their artillery, forge, and munitions of war in this weak vessel they took but a small supply of food, though they had an abundance on hand.

Sailing with a favorable wind, they had gone only about one-third of the distance across the Atlantic, when calms befell them. Their provisions were soon so diminished that the daily allowance to each man was but twelve grains of millet. They were soon compelled to eat their shoes and leathern jackets and to drink the water of the sea. Some died of hunger. The boat leaked on all sides and required constant bailing. A storm arose and injured their frail vessel so much that in their despair they ceased their exertions and laid them down to die. Then, inspired with hopes by one more courageous than the rest, they agreed that one should die that the rest might live. Lots were cast, and it fell to Lachere, the man Captain Albert had banished and whose life his comrades had saved, now to die for them. He willingly gave back this boon to his starving friends. Soon after this they met an English vessel and were carried to England.

As soon as peace was partially restored in France, the Calvinists having secured the freedom of worship in the towns they held, Coligny revived his project of colonization, and Laudoniere was dispatched in command of three ships, and reached America in June, 1564. He must have received information of the abandonment of Fort Charles, for he did not visit it again, but proceeded to Florida,

where he built a fort on the May River, which he named Fort Caroline.

This fort was afterwards, while under the command of Ribault, who had returned and superseded Laudoniere, destroyed by the Spaniards from St. Augustine, under Menendez, and the garrison massacred. The story is told that beneath the tree on whose branches Menendez hung his French prisoners was placed an inscription, "I do not do this as to Frenchmen ; but as to heretics." This was avenged by the Chevalier de Gourges, who sailed from France with an expedition raised at his own expense for the purpose, and hanging the Spaniards to the same trees, altered the inscription to read, "I did not do this as to Spaniards nor as to infidels ; but as to traitors, thieves, and murderers."

Thus ended the first attempt to establish a colony of Huguenots in what is now Carolina ; but these simple yet heroic people were again to come and to impress their gentle manners, their gallantry, their frugality, and above all their religious tone upon those with whom they were to form the people of South Carolina.

The attempted settlement at Port Royal forms an episode in the history of the territory. It gave to the whole region the name of Carolina in honor of Charles IX of France, and to the river on which it was planted, that of Port Royal. These names are all that remain of Ribault's enterprise. And except these names, and perhaps some tradition which may still have existed among the Indians when the English colonists arrived in the century after, and which may have influenced their conduct to the new adventurers for good or evil, it left no impression whatever upon the history which follows.

No other settlement was effected in Carolina for more than a hundred years after the abandonment of the French

colony at Port Royal. In the meanwhile Sir Walter Raleigh's attempted colonies on the Roanoke in 1585 and 1587 had likewise ended disastrously; but later English colonies had been successfully planted in Virginia in 1607; in Massachusetts in 1620; the New Netherland Company had been formally established on the Hudson in 1614, another settlement by the Dutch at Bergen opposite New York in 1617, permanent settlements in Connecticut by the same people in 1633, and on the Delaware in 1639; Lord Baltimore's emigrants had settled at St. Mary's in 1634. Companies from Massachusetts had spread themselves into Connecticut in 1634-36, and into Rhode Island in 1636-39.

Attention has recently been called to the historical fact that as early as the 10th of February, 1629, French Protestant refugees in England were in communication with Charles I for planting a colony in what is now South Carolina; and that the patent issued to Sir Robert Heath as sole proprietor of this extensive region grew out of the proposals of Soubise, Duc de Fontenay, representing French refugees in England, and of Antoine de Ridonet, Baron de Sancè, his secretary; and that in 1630 a colony of French Protestants actually sailed for Carolina in the ship *Mayflower*. Could it have been, it is asked, the same vessel that carried the Puritans to Plymouth Rock? From some unexplained cause these Huguenots were landed in Virginia, for which miscarriage the owners of the vessel were made to pay £600 damages.<sup>1</sup>

In 1630 a grant was made by King Charles I to Robert Heath of all the territory known as Carolina; but no colony was established under it. The first English colony

<sup>1</sup> Hon. William A. Courtenay. *In Memoriam*, Daniel Ravenel. See also *Coll. Hist. So. Ca.*, vol. I, 199, 200.



planted in what is now South Carolina was that sent out under the charters of 1663–65 of Charles II.

The Spaniards claimed Florida, the northern limits of which were undefined, and Menendez, who had destroyed Fort Caroline and massacred its garrison, had in 1665 laid the foundation of St. Augustine and built the fort of San Mateo, which was so long to be a thorn in the side of the Carolina colonists.

As Rivers observes, notwithstanding the favorable description which Verrazzano had given of our climate and country, and Ribault's account of the beautiful and commodious harbor of Port Royal, a prejudice had arisen in favor of the more northern situations. But the success and prosperity of the colonies already established had awakened great interest in the mother country, and the vast and unexplored territory known as Carolina lying between Virginia admittedly under the domain of Great Britain, and Florida equally recognized as belonging to Spain, with its undefined boundaries, could not be allowed by his Majesty the King of England to remain unclaimed and unoccupied. So in the second year after the restoration, Charles II readily granted to some of his adherents and courtiers to whom he was indebted for distinguished services, and who claimed to be excited "*with a laudable and pious zeal for the propagation of the Christian Faith and the Enlargement of our Empire and Dominions,*" a charter with extensive powers, for all the region lying south of Virginia extending from 31° to 36° north latitude, and westward within these parallels across the Continent, which was to be called Carolina, as it was now said, in honor of his Majesty, the said Charles II of England.

## CHAPTER II

EUROPEAN governments claimed their several possessions in America by right of discovery, by occupancy, by conquest, and by treaties with the Indians. It was deemed a sufficient ground for a king, upon which to base a claim, that a subject had sailed along a coast, and perhaps landed a boat's crew and proclaimed possession, and this to warrant the grant of lands beyond the shore, the nature and extent of which were entirely unknown. A foothold once obtained, dominion was asserted by occupancy over so much at least as the number of the colony enabled them securely to hold. Then followed in some instances so-called treaties — bargains by which for a few trinkets the natives were held to have ceded whatever right in the soil they may have had; or else upon some pretext of wrong, war was declared, the natives driven away or slaughtered, and title claimed by right of conquest.

England claimed her possessions as conquered or ceded territory, in which it was held that the King might make, alter, and change the law at will; and that the common law therefore had no allowance or authority in them, they being no part of the mother country, but distinct though dependent dominions. They were subject, however, to the control of the Parliament, though not bound by any act unless particularly named.<sup>1</sup>

<sup>1</sup> Blackstone's *Com.*, vol. I, 108; Jacob's *Law Dictionary*, title "Plantation," vol. V, 160. See the discussion of the doctrine in the U. S. Senate by Calhoun and Webster on the proposition to establish territorial government in New Mexico and California, February 24, 1849.

The governments of the English Plantations or Colonies in America were of three sorts.

1. Royal or Provincial establishments, the constitution of which depended on the respective commissions issued by the crown to the governors and the instructions which usually accompanied their commissions; under the authority of which provincial assemblies were constituted with the power of making local ordinances not repugnant to the laws of England.

2. Proprietary governments, granted out by the crown to individuals in the nature of feudatory principalities with all the inferior regalities and subordinate power of legislation which formerly belonged to the owners of counties palatine; yet still with these express conditions, that the ends for which the grant was made be substantially pursued and that nothing be attempted which might derogate from the sovereignty of the mother country.

3. Charter governments, in the nature of civil corporations with the power of making by-laws for their own interior regulation not contrary to the laws of England; and with such rights and authorities as are specially given them in their several charters of incorporation.<sup>1</sup>

This is the order in which Blackstone stated the three forms of colonial government of England; but chronologically the reverse is the order in which they were established. In June, 1579, Queen Elizabeth issued letters patent to Sir Humphrey Gilbert, authorizing him to discover, occupy, and possess such remote "heathen lands not actually possessed of any Christian prince or people as should seem good to him or them"; but although he disposed of his patrimony and all he possessed in fitting out a fleet to avail himself of this gracious permission of his Queen, the enterprise failed. The first step in the

<sup>1</sup> Blackstone's *Com.*, vol. I, 107-109.



work of English colonization of America was the grant, six years after the permission given to Gilbert, to his half-brother, Sir Walter Raleigh. This grant was in the nature of a charter. It gave to him

“and to his heires and assigns for ever free libertie and licence from time to time and all times for ever hereafter to discover, search finde out and view such remote heathen and barbarous lands countreys and territories not actually possessed of any Christian Prince nor inhabited by Christian people,” ect.

The people in those remote lands he was given power and authority to correct, punish, pardon, govern, and rule,

“according to such statutes, lawes, and ordinances as shall bee by him the saide *Walter Raleigh* his heires and assignes and euery or any of them devised or established for the better government of the said people as aforesaid.”

Then follows a proviso which in some form is found in all the subsequent charters:—

“So always as the said statutes lawes and ordinance may be as neere as conveniently may be agreeable to the forme of the lawes statutes government or policie of England and also so as they be not against the true Christian faith nowe professed in the Church of England, nor in any wise to withdrawe any of the subjects or people of those landes or places from the allegiance of vs our heires and successors as their immediate soueraigne vnder God.”<sup>1</sup>

Under this charter Sir Walter Raleigh dispatched five fleets in succession in the years 1585 to 1587, and planted three small colonies on the coast of what is now North Carolina, which disappeared one after the other and left no trace.

No permanent English settlement was effected in what now constitutes the United States till the reign of James I. In 1606 a charter was given by the monarch

<sup>1</sup> *Charters and Constitutions — The United States* (Poore), 2 vol., 1379–1381.

to Thomas Gates and his associates, certain knights, gentlemen, merchants, and other adventurers, who were to divide themselves into two several colonies. Those from the city of London were to begin their plantations at some convenient place on the coast of Virginia; those from the cities of Bristol and Exeter and the town of Plymouth, at some convenient place on the coast of New England.<sup>1</sup> Under the charter the dominion of Virginia was founded in 1607, and the New England colonies in 1620. That of Virginia and those of the New England colonies subsequently established were the charter governments mentioned by Blackstone, — civil corporations with power of making laws for their own interior regulations subject to the restriction of the charters.

The first British colonies in America were thus established under charter governments. Then followed a series of Proprietary grants. The first of these was of the Island of Barbadoes, which was granted to the Earl of Marlborough by James I, — a grant which was, however, disregarded by his successor, Charles I, who, upon ascending the throne, granted to the Earl of Carlisle a charter of all the Caribbee Islands, including in the enumeration of them that of Barbadoes. This celebrated charter, which formed the precedent of all the Proprietary charters afterwards issued, was dated 2d of June, 1629.<sup>2</sup>

The next Proprietary charter was that by the same monarch in 1630 of Carolina or *Carolana* to Sir Robert Heath. This grant covered all the region lying south of Virginia, extending from 31° to 36° of north latitude and westward within these parallels across the Continent

<sup>1</sup> *Charters and Constitutions — The United States* (Poore), 2 vol., 1888.

<sup>2</sup> Edward's *Hist. of West Indies*, 1, 323; Poyer's *Hist. Barbadoes*, 6-11.

from ocean to ocean.<sup>1</sup> Dr. Daniel Coxe of New Jersey, who claimed this patent through various assignments, and who wrote in 1721 a description of the territory claimed under the grant, observes that "*Carolana* and *Carolina* are two distinct tho' bordering Provinces, the east of *Carolana* joyning to the west of *Carolina*." The former, he states, "was granted by Patent unto *Sir Robert Heath* in the Beginning of the reign of King Charles I which said *Sir Robert* was the attorney general, and by him convey'd to the Earl of Arundel from whom it came by mean conveyances unto the present Proprietary."<sup>2</sup> This admission by Coxe, who was claiming under the Heath grant that the eastern boundary of *Carolana* was the western boundary of *Carolina*, was induced doubtless to avoid conflict with the colonies established under the subsequent grants of 1663 and 1665, which covered the same territory, and under which the Proprietors had then occupied and held for fifty years. The grant to Heath, however, distinctly ran to "the ocean on the East." The claims to the province of "*Carolana*" continued to be prosecuted, but limited in this way to the country west of the settled portion of *Carolina*, and embracing the Mississippi. Upon the issue of the first charter of *Carolina* by Charles II the Heath patent was by order of council, August 12, 1663, declared void because of failure to

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 6; *Hist. Sketches of So. Ca.* (Rivers), 64.

<sup>2</sup> *A Description of the English Province of Carolana*, by Daniel Coxe, 1721. For abstract of title see *Colonial Records of No. Ca.*, vol. I, 519.

Hawks's *Hist. of No. Ca.*, vol. II, 70. Dr. Daniel Coxe was physician to the queen of Charles II, and also to Queen Anne. He was the ancestor of Tench Coxe of Philadelphia, the statesman and economist, sometimes called the father of the growth of American cotton. Dr. Coxe was also the principal proprietor of West Jersey. "The Southern States," *De Bows' Review*.



fulfil its conditions, there having been under it but a few feeble and unsuccessful attempts at colonization.<sup>1</sup> Then followed the grant of the charter of Maryland to Lord Baltimore, June 20, 1632;<sup>2</sup> and of Maine to Sir Ferdinando Gorges, April 3, 1639.<sup>3</sup>

There were no charters granted during the existence of the Commonwealth in England. Upon the Restoration, Charles II rewarded his supporters, the Earl of Clarendon, the Duke of Albemarle, Lord Craven, Lord Berkeley, Lord Ashley, Sir George Carteret, Sir William Berkeley, and Sir John Colleton, by a patent dated March 24, 1663, granting them the province of Carolina.<sup>4</sup> The next year he issued a patent to his brother, the Duke of York, afterwards James II, giving him the province of Maine and all the lands and rivers from the west of the Connecticut River to the east side of Delaware Bay, *i.e.* the States of New York and New Jersey;<sup>5</sup> and immediately dispatched a fleet to wrest those lands from the Dutch, who had possessed them under the name of the New Netherlands. Later, *i.e.* in 1681, the province of Pennsylvania was granted to William Penn, and so named in honor of Admiral Penn, his father, whose advances of money and services were thus requited.<sup>6</sup>

<sup>1</sup> Chalmers's *Pol. Ann.*; Carroll's *Collections*, vol. II, 278; *Hist. Sketches of So. Ca.* (Rivers), 64. The King and Council declared Heath's charter void; but as it had not been legally so adjudged, Coxe's descendants obtained a recognition of their rights from the Board of Trade, and received from the Crown in 1768, in lieu of their claim to Carolina, 100,000 acres of land in the interior of New York. See *Government of the Colony of So. Ca.* (Whitney); *Johns Hopkins University Studies*, 13 series, 1-11, 24.

<sup>2</sup> *Charters and Constitutions — The United States* (Poore), vol. I, 811.

<sup>3</sup> *Ibid.*, 774.

<sup>4</sup> *Ibid.*, vol. II, 1352; *Statutes of So. Ca.*, vol. I, 22.

<sup>5</sup> *Charters and Constitutions*, vol. I, 783.

<sup>6</sup> *Ibid.*, 1509.

As Virginia was the first instance of a charter government, so it was the first of a Royal government. The charter of the famous London Company having been declared forfeited by the Court of King's Bench upon a writ of *quo warranto* in 1624, a Royal government was set up in its stead. The Island of Jamaica had been taken by the British from the Spaniards during Cromwell's rule. Upon the Restoration, Charles II, to conciliate the affections of the colonists whose valor had annexed so important an appendage to his dominions, appointed as Governor of the island General D'Oyley, to whose exertions the possession of Jamaica was chiefly owing. His commission was dated 13 February, 1661. By his instructions he was to release the island from military subordination, to erect courts of judicature, and with the advice of a council, to be elected by the inhabitants, to pass laws suitable to the exigencies of the colony.<sup>1</sup>

The establishment of a Royal government in Jamaica was hailed as a blessing by the people of that island; but far otherwise was it regarded when, in 1663, such a government was set up in Barbadoes. As this event was not without considerable influence upon the colony of Carolina, we shall have occasion to relate somewhat in detail the circumstances which brought it about. For the present it is sufficient to observe that at the time of the founding of the province of Carolina the three existing Provincial or Royal governments were those of Virginia, Jamaica, and Barbadoes.

The Proprietary charter of Maryland is usually referred to as the model of that of Carolina;<sup>2</sup> but both of these, as well as that of the patent of Charles I to the Earl of

<sup>1</sup> Edwards's *Hist. of West Indies*, vol. I, 171.

<sup>2</sup> Chalmers's *Pol. Ann.*; Carroll, 281; *Hist. Sketches of So. Ca.* (Rivers), 79.

Carlisle for the Caribbee Islands, are based upon that of Sir Robert Heath of *Carolana*; which in its turn followed, but enlarged upon, that of the Earl of Marlborough and that of Sir Walter Raleigh. This last, the patent to Raleigh, which was the first of all the charters, we recollect authorized and empowered Raleigh, his heirs and assigns, to govern and rule by such statutes, laws, and ordinances as he should devise, provided always that such statutes, laws, and ordinances should be as near as conveniently might be agreeable to the laws of England. Sir Robert was empowered in his government to do likewise, but very important additions and restrictions were made to the terms of his grant, and these were followed in all subsequent patents.

“Whereas,” declared his Majesty, “our beloved and faithfull subject and servant Sir Robert Heath, Knight, our attorney Generall, kindled with a certaine laudable and pious desire as well of enlarging the Christian religion as our Empire & encreasing the Trade & Commerce of this our kingdom,” etc., “we have therefore granted to Sir Robert the territory described; And furthermore the patronages and advowsons of all churches which shall happen to be built hereafter in the said Region Territory & Isles and limitts by the increase of the religion & worship of Christ. Together with all & singular these & these soe amply Rights Jurisdictions privileges prerogatives Royalties libertyes immunities with Royal rights & franchises whatsoever as well by sea as by land within that Region Territory Isles & limitts aforesaid To have exercise use & enjoy in like manner as any Bishop of Durham within the Bp<sup>riche</sup> or County Palatine of Durham in our kingdome of England ever heretofore had held used or enjoyed or of right ought or could have hold use or enjoy. And by these presents we make create & constitute the same S<sup>r</sup> Robert Heath his heires & assignes true and absolute Lords & Proprietors of the Region & Territory aforesaid & all other the premises for us our heires & successors saveing alwaies the faith & Allegiance due to us our heires & successors,” etc.<sup>1</sup>

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 5.



The province granted was thus constituted a County Palatine with Sir Robert Heath, his heirs and assigns, as Lords Proprietors. To understand, therefore, the nature of this grant, we must go back to the County Palatine in England. They were three of these, — Chester, Durham and Lancaster. Counties Palatine are so called, *a palatio*,<sup>1</sup> says Blackstone, because the owners thereof, the Earl of Chester, the Bishop of Durham, and the Duke of Lancaster, had in these counties *jura regalia* as fully as the King hath in his palace *regalem potestatem in omnibus* as Bracton expresses it. They might pardon treasons, murders, and felonies, they appointed all judges and justices of the peace, all writs and indictments ran in their names as in other counties in the King's name, and all offences were said to be done against their peace, and not, as in other places, *contra pacem domini regis*. These palatine privileges were in all probability, observes this author, originally granted to the counties of Chester and Durham because they bordered upon inimical countries, Wales and Scotland, in order that the inhabitants having justice administered at home might not be obliged to go out of the county and leave it open to the enemy's incursions; and that the owners being encouraged by so large an authority might be the more watchful in its defence.<sup>2</sup>

Of the three, the County of Durham was the only palatine remaining when King Charles made his grant to Sir Robert Heath — and upon that model was the proposed government of *Carolana*. It was to be a viceregal one. But other important qualifications were prescribed.

<sup>1</sup> The term "Palatine," from *Comes Palatii*, count of the palace, is a title formerly given to some great dignitary of the Royal household. It thus became the title of a governor of some local district with the authority and privileges of Vice Royalty; in England the County of Durham is a County Palatine. 1 *Statutes*, 42.

<sup>2</sup> Blackstone's *Com.*, vol. I, 117.

Raleigh had been empowered to make such statutes, laws, and ordinances as he deemed best; Heath's power was encumbered with a proviso. His laws must receive the assent of the people. He was empowered

"to forme, make, & enact, & publish . . . what lawes souer may concerne the publicke state of the said province or the private profit of all according to the wholesome directions of & *with the counsell assent & approbation of the Freeholders of the same Province or the Major part of them who when & as often as need shall require shall by the aforesaid Sr Robert Heath his Heires & Assignes & in that forme which to him or them shall seem best, be called together to make lawes & those to be for all men within the said Province,*" ect.<sup>1</sup>

To this, however, was added another proviso found also in subsequent charters, which enabled the Proprietors upon emergencies to dispense with the advice of the freemen.

"And because in the government of soe great a Province sudden chances many times happen to which it will be necessary to apply a remedy before that the Freeholders of the sayd province can be called together to make lawes, neither will it be convenient upon a continued title in an emergent occassion to gather together soe great a people therefore." Sir Robert and his heirs and assigns it was declared, "shall & may have power from time to time to make & constitute wholesome and convenient Ordinances within the Province aforesaid . . . which Ordinances we will that they be inviolably observed within the sayd Province under the paines expressed in them, soe as the sayd Ordinances be consonant to Reason & not repugnant nor contrary but (as conveniently may be done) consonant to the laws, statutes, & rights of our Realme of England as is aforesaid soe alsoe that the same Ordinances extend not themselves against the right or interest of any person or persons or to distrayne, bind or burden in or upon his freehold goods or chattels or to be received anywhere than in the same Province or the Isles aforesay'd." <sup>2</sup>

There was also this peculiar provision which was followed in the charters of Maryland and Carolina:—

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 8.

<sup>2</sup> *Ibid.*, vol. I, 8, 9.

“Furthermore least the way to Honours & Dignities may seem to be shutt & altogether barr’d up to men honestly borne & are willing to undertake this present expedition & are desirous in soe remote and far distant a Region to deserve well of us & of our kingdomes in peace & warre for that doe for ourselves our heires & successors give full & free power to the forsayd Sr. Robert Heath, Knight, his heires & assignes to confere favours, graces & honours *upon those well deserving citizens that inhabit within the forsayd province* & the same with whatever titles & dignities (provided they be not the same as are now used in England) to adorne at his pleasure,”<sup>1</sup> etc.

With these precedents before him, Charles II proceeded to reward the friends who had stood by him in his adversity. It is well to recall who these were.

The Earl of Clarendon had been his companion and counsellor, in exile, and after Cromwell’s death had materially contributed to the reëstablishment of the monarchy. His daughter was subsequently married to the Duke of York, afterwards James II, and their children Mary and Anne became Queens of England. The history of this great man is too well known to need any extended notice here.

George, Duke of Albemarle, Master of the Horse, and Captain General of the Forces, was the famous General George Monk. No single person deserved more the title of the Restorer of the King, than he. His history is also well known.

William, Earl Craven, was an elderly man who had been distinguished in love and war thirty years before, who had led the forlorn hope at Crentznach with such courage that he had been patted on the shoulder by the great Gustavus, and who was believed to have won from a thousand rivals the heart of the unfortunate Queen of Bohemia.<sup>2</sup> He had been elevated to the peerage by Charles I, and having afterwards during the civil wars

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 11.

<sup>2</sup> Macaulay’s *Hist. of England*, IV, 42.



zealously and ably espoused the Royal cause, had been, upon the Restoration, created Earl.<sup>1</sup> For twenty odd years more, he was to serve the Stuarts and to be last to stand by that family. He was to survive all the other grantees.

John, Lord Berkeley, like Craven, had long been in the service of the Royal family. He had been knighted in 1638, by Charles I, and upon the breaking out of the rebellion, had been one of those very good officers (as Lord Clarendon calls them) who were ordered to form an army in the west. In the King's service he had achieved great successes. He had stood so high in the estimation of the Queen, that her Majesty had selected the city of Exeter under his protection as the birthplace of the Princess Henrietta Maria ; and had especially recommended "Jack Berkeley" to the favor of her Royal husband. He had been employed in the endeavor to negotiate terms for the unfortunate Charles. During the Commonwealth, Sir John remained in exile with the Royal family. Upon the restoration of the monarchy his Lordship was sworn of the Privy Council.<sup>2</sup>

Anthony Ashley Cooper, Lord Ashley (after whom the Cooper and Ashley rivers have been named), had been particularly recommended to Charles II by General Monk, as a person well fitted to be one of his council. Although regarded as a politician who had espoused the cause of monarchy, then of the Parliament, and then of monarchy, as it suited his ambition, yet he long retained the favor and confidence of the King, and by his distinguished abilities became Chancellor of England, and was made Earl of Shaftesbury. He was again to forfeit the Royal confidence, and to die in exile. He was the constant friend and patron of the philosopher Locke, to whom

<sup>1</sup> Burke's *Peerage*.

<sup>2</sup> *Ibid*.

was committed the framing of the fundamental laws for the government of Carolina. This nobleman was most influential in the early policy of Carolina.

Sir George Carteret had been a naval officer of the highest reputation and of great influence. He had retired from the navy, and withdrawn with his family to Jersey, but returned to the aid of the Royalists, and was made a baronet by King Charles, May 9, 1645. He was Governor of Jersey when ruin befell the Royal cause, and afforded there an asylum to the Prince of Wales, the Earl of Clarendon, and other refugees. He afterwards defended the island in the most gallant manner against the Parliamentarians, and surrendered ultimately only upon receiving the command of King Charles II so to do. Elizabeth Castle, in the Island of Jersey, was the last fortress that lowered the Royal banner. He was also of the Privy Council.<sup>1</sup>

Sir John Colleton had been a captain of foot and a most active partisan of royalty in the beginning of the civil wars. Receiving from Lord Berkeley a colonel's commission to raise a regiment for his army in the west, he succeeded in doing so in ten days, and expended for the King's service £40,000 besides losing considerably more than that sum by sequestration. After the success of the parliamentary forces he retired to Barbadoes. There he still maintained the Royal cause, and upon the Restoration, with twelve other gentlemen of that island, among them Sir John Yeamans, who with him was to take an active part in the early settlement of Carolina, secured the dignity of knighthood.<sup>2</sup>

Sir William Berkeley, brother of Lord Berkeley, was for many years the able and loyal Governor of Virginia. He

<sup>1</sup> Clarendon's *Hist. of the Rebellion*, vol. II, 834.

<sup>2</sup> Burke's *Peerage*; Poyer's *Barbadoes*, 76.

espoused the cause of Charles I against the Parliament, refused to hold office under Cromwell, and induced the Colony boldly to adhere to Charles II as their sovereign while he was in exile and at a time when the power of Parliament was supreme. In remembrance of this the King is said to have worn at his coronation a robe of Virginia silk.<sup>1</sup>

The patent to these favorites of the King began with the usual declaration as to the motives of the grant; viz. that the grantees were incited by a laudable and pious design of propagating the Christian religion and the enlargement of the English empire and dominion.

To carry out these pious and patriotic views, the grantees were given "all that territory, or tract of ground called Carolina scituate, lying, and being within our dominions of America, extending from the north end of the Island called Lucke Island, which lieth in the Southern Virginia seas, and within six and thirty degrees of the north latitude and to the west as far as the South Seas and so southerly as far as the River Matthias which bordereth upon the coast of Florida, and within thirty-one degrees northern latitude and so west in a direct line as far as the South Seas aforesaid."<sup>2</sup> This territory with all that it contained, the grantees were "to have, use, and enjoy, and in as ample a manner as any Bishop of Durham in our kingdom of England ever heretofore held used or enjoyed or of right or could, have, use or enjoy."<sup>3</sup>

The province of Carolina was thus constituted, as its predecessor of *Carolana* had been, a County Palatine, and

<sup>1</sup> *Hist. Sketches of So. Ca.*, 64, note; Cooke's *Virginia, Am. Commonwealth Series*, 182-192; *Genesis of the United States* (Alexander Brown), 327, 328.

<sup>2</sup> *Statutes of So. Ca.*, vol. I, 22; *Colonial Records of No. Ca.*, vol. I, 102; *Charters and Constitutions — The United States*, vol. II, 1382.

<sup>3</sup> *Ibid.*



as Sir Robert Heath had been, the grantees too were constituted Lords Proprietors. Like him they were authorized to make any law "according to their best discretion *of and with the advice assent and approbation of the Freemen of the said Province or of the greater part of them or of their delegates or deputies,*" whom for the purpose of enacting laws the Lords Proprietors should "*from time to time assemble in such manner and form as to them should seem best.*"<sup>1</sup> This most important provision, common also to the charters of the Earl of Carlisle and of Lord Baltimore, though subject, as we shall see, to evasion, saved the province of Carolina from the impositions of the absurd Fundamental Constitutions of Locke. Like Sir Robert Heath, the grantees under this charter were empowered upon sudden occasions without awaiting the assent of the freemen to make orders and ordinances for the keeping of peace and better government of the people, provided that such ordinances should be reasonable and not repugnant to the laws of England; but strange to say, while the Carlisle patent forbade any such temporary law to affect either the liberty or the property of the citizen without the assent of the freemen assembled, and while the Baltimore patent went further, and declared that such laws must not extend to limit, restrict, or do away with the right or interest of any person in *limb, life*, freehold, or chattels, the Carolina charter protected neither life, limb, nor liberty; it forbade only that such ordinances should extend "to the binding, charging, or taking away of the right or interest of any person or persons in their freehold goods or chattels whatsoever."<sup>2</sup>

<sup>1</sup> *Statutes of So. Ca.*, vol. I, 24; *Colonial Records of No. Ca.*, vol. I, 23; *Charters and Constitutions* (Poore), vol. II, 1384.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 25; *Charters and Constitutions*, vol. II, 1385; *Statutes of So. Ca.*, vol. I, 25.

Not to encumber these pages with tracing further the similarity in the provisions of the three charters, we confine ourselves to those of the Carolina patent. It was expressly enjoined that the province of Carolina should be of his Majesty's allegiance and that all subjects who should be transported into the province, and the children born there, should be denizens and lieges of the Kingdom of England. License was given the Proprietors and the colonists to trade with the natives and to transport into the province goods, wares, and merchandise, and all things necessary for food and clothing without let or hindrance, saving the customs and duties due according to the several rates of the places from whence the same should be transported. They were also licensed to bring into any of his Majesty's dominions certain specified articles : silks, wines, currants, raisins, capers, wax, oil, and olives, without paying any custom import or duty therefor for seven years from the first importation of four tons of any of the said goods ; and to export therefrom custom free all sorts of tools which should be useful or necessary for the planters there.

The Lords Proprietors were authorized to establish ports of entry and to assess and impose customs and subsidies for the goods imported. They were authorized to build forts, castles, cities, and towns, and to appoint governors, magistrates, sheriffs, and other officers, civil and military ; to grant charters of incorporation and erect markets and marts and fairs and to hold courts baron. They were given power to make war and pursue their enemies ; to exercise martial law in case of rebellion, tumult, or sedition. It was expressly stipulated that the inhabitants should not be compelled to appear or answer to any suit or plaint in any place out of the province *other than in England or Wales*.

The Proprietors were granted the patronage and advow-

sons of all churches and chapels which, as the Christian religion should increase, might be erected, together with the license and power to build and found churches, chapels, and oratories, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of England. These powers they were to use and enjoy in the same manner as the Bishop of Durham exercised his in England.

The Church of England was thus established in the province: but as in the state of religious controversy which prevailed at the time it was expected that many dissenters would seek the new colony if liberty of conscience was protected, the charter went on to provide that "because it might happen that some of the people of the Province could not in their private opinions conform to the publick exercise of religion according to the liturgy form and ceremonies of the Church of England or take and subscribe the oaths and articles made and established in that behalf," the Lords Proprietors should have full liberty and authority to grant to such persons "who really in their judgments and for conscience sake cannot or shall not conform to the said liturgies and ceremonies and take and subscribe the oaths and articles . . . such indulgencies and dispensations as in their discretion they might see fit and reasonable."

But the feature for which this charter is best known is that which follows the charter of Sir Robert Heath, and is found also in Lord Baltimore's patent. It declares that "*because many persons born or inhabiting in the said Province for their deserts and services may expect and be capable of marks of honour and favour which in respect of the great distance can not be conveniently conferred*" by his Majesty, it was the Royal pleasure to give to the proprietors full power and authority, "to give . . . and confer upon such



*of the inhabitants of the Province* as they should think to merit the same, such marks of favour and titles of honour as they should think fit so as these titles of honour be not the same as are enjoyed by or conferred upon any subjects of this our Kingdom of England.”<sup>1</sup>

Such was the first charter of Carolina. It attempted to establish a miniature government like to that of England, with the Lords Proprietors representing the Royal authority and possessing the viceregal powers and authorities of a Palatine ; an aristocracy to correspond with that of the mother country and a House of Commons to be elected by the freemen.

It happened that just at this time complications growing originally out of the claim of the Earl of Marlborough to the Island of Barbadoes as antecedent to the Carlisle patent, but afterwards becoming involved in controversies following the civil war, and disasters by hurricanes and other causes, culminated in loss to that colony but to the great assistance in the settlement of Carolina. The influence which this Barbadian element had upon the settlement of Carolina renders a brief allusion to the causes of this emigration interesting, if not necessary, to any historic account of its development.

During the first stages of the civil war in England, Barbadoes had been an asylum for both the Royalists and the Parliamentarians who sought to avoid the contest at home, and emigration from the mother country to this island during the commotions in England was very great. These refugees planted themselves without the license of any one, and the Governor for the time being granted lands to all who applied on receiving a gratuity to himself. The Royalists at this time formed by far the most consid-

<sup>1</sup> *Statutes of So. Ca.*, vol. I, 28 ; *Charters and Constitutions* (Poore), vol. II, 1387 ; *Colonial Records of No. Ca.*, vol. I, 29.

erable part of the people ; but the two parties mutually agreed to avoid all political controversy and live together on terms of reciprocal friendship and good will. This happy condition of things, however, could not last ; the fierce strife at home soon extended to the West Indies ; Barbadoes became the scene of civil war and was for a time reduced by the parliamentary forces. On the reëstablishment of the Royal authority his Majesty, as we have said, honored thirteen gentlemen of Barbadoes with the dignity of baronetage for their loyalty and sufferings during the civil war.<sup>1</sup> Among these were two whose names are associated with the early history of Carolina, — Sir John Colleton and Sir John Yeamans.<sup>2</sup> Of Sir John Colleton we have already spoken. Sir John Yeamans was the eldest son and heir of Robert Yeamans, alderman of Bristol, who was imprisoned and executed in 1643 by order of Nathaniel Fiennes, son of Lord Saye, who had been appointed Governor of Bristol by the Parliament.

But while conferring these empty titles, the King turned a deaf ear to the planters who had loyally stood by him in the time of his need and whose estates were now called in question. The controversy in regard to the conflicting claims of the Earls of Marlborough and Carlisle was again renewed. In vain the planters pleaded to his Majesty that they, his loyal subjects, had repaired to Barbadoes as to a desolate place and had by their industry obtained a livelihood ; that if they should now be left to ransom themselves and compound for their estate, they must leave the country and the plantations which yielded his Majesty so great a revenue. To no such appeals did Charles the Second ever listen. Between the several claimants there was an opportunity for raising a revenue for himself, and

<sup>1</sup> Lecky's *Eighteenth Century*, vol. II, 23.

<sup>2</sup> Poyer's *Hist. of Barbadoes*, 76 ; Hewatt's *Hist. of So. Ca.*, vol. I, 52.

this became the only aim of the King's ministers. A permanent and irrevocable revenue of four and a half per cent on the produce of the island was levied, to be applied towards the satisfaction of the claims arising under the Carlisle and Marlborough patents and then to be placed at the disposal of the crown.

The planters of Barbadoes were deeply offended at this treatment. Many of them had been obliged to quit their native country because of their support of the Royal cause; yet in this settlement they perceived a regard for every interest concerned but their own.

While the Parliamentarians had been in the ascendant, they had passed the famous act which laid the foundation of the navigation system to which Great Britain is chiefly indebted for her opulence and maritime strength, but which was to have an inimical effect upon the American colonies and a great influence in estranging them from the mother country. This act, which prohibited any foreign nation from trading with any of the English plantations without a license from the Council of State, fell with great severity upon the sugar colonies, against which it was indeed chiefly aimed, and was regarded as a chastisement inflicted on them by the Commonwealth for their loyalty to Charles. The colonists of the Sugar islands were filled with amazement and indignation on finding the provisions confirmed upon the restoration of that monarch. Cromwell had put an end to their foreign trade, and now Charles was taxing them out of their estates. Many planters determined to leave Barbadoes, and they turned to the proposed colony in Carolina.

On the 10th of June, 1663, Sir John Colleton, then in London, addressed a communication to the Duke of Albemarle, stating that divers people desired to settle and plant his Majesty's province of Carolina under the patent



granted, but that one Mr. Mariot, steward to the Duke of Norfolk, had set up a claim grounded upon the patent to Sir Robert Heath.

This, he says, “will certainly hinder that publique worke which is intended by the settlement and planting of Carolina for the persons that at present designe thither expect liberty of conscience and without that will not goe w<sup>ch</sup> by the patent to S<sup>r</sup> Robert Heath cannot bee granted them and they cannot settle under the patent least the other gentlemen shall give them trouble or disturbance — so that there is a necessity of the present removall of that obstacle which is humblie left to the consideraçon of yo<sup>r</sup> Grace and the noble persons concern’d.”<sup>1</sup>

Upon this, on the 12th, the Privy Council ordered that his Majesty’s Attorney General should proceed either by inquisition or *scire facias* to revoke all former grants of the province; and that in future a clause should be inserted in all grants, that if within a certain number of years no settlement was made, the grant should become void.<sup>2</sup>

While Sir John Colleton was thus removing the obstacle presented by the claims under Sir Robert Heath’s grants, Colonel Modiford, who had been Governor of Barbadoes, and Peter Colleton, were preparing and submitting proposals for the settlement of a Barbadian colony in the province. Without waiting for the acceptance of their proposals, they sent out an expedition in the ship *Adventurer*, Captain Hilton, to explore the coast of Carolina. The expedition sailed from Spekes Bay, Barbadoes, August 10, 1663. On Thursday, 3d September, Hilton entered a harbor, “and found that it was the River *Jordan*, and was but four Leagues or thereabouts N-E from Port Royal, which by the Spanyards is called *St Ellens*; within

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 34.

<sup>2</sup> *Ibid.*, 42.

land both Rivers meet in one." This was doubtless the Broad River. There the expedition remained some days, endeavoring to rescue a party of Englishmen who, they learned from the Indians, were held on shore by the Spaniards. Failing in this, Hilton sailed to the Cape Fear, and after remaining there exploring the country he returned to Barbadoes on the 6th of January, 1663-64. His *Relation* of his voyage and discoveries was published in London in 1664.<sup>1</sup> The Proprietors, however, did not accept the proposals as made by Colonel Modiford and Peter Colleton, under whose auspices the expedition was made, and nothing came of this attempt at a settlement of the new province. Modiford turned his attention to Jamaica, where he settled with his large fortune, and found an ample field for the employment of his capital, talents, and industry.<sup>2</sup>

<sup>1</sup> *Year Book City of Charleston*, 1884 (Courtenay), 227.

<sup>2</sup> Poyer's *Hist. of Barbadoes*, 68.

## CHAPTER III

1663-69

As early as 1660 a company from Massachusetts had found their way to the Cape Fear, then known as Charles River, and planted themselves on its borders. These men were merely adventurers, who came under no authority, and claimed under no grant. They made some slight examination of the country near the mouth of the river only, and determined to occupy it for the purpose of rearing cattle. An effort was made to secure the co-operation of some of their friends in England in bearing the expense, and some individuals residing in London were induced on their representation "to share in the enterprise." The larger portion of the company, however, was composed of New England men. It is not certainly known how long these adventurers remained; but they had abandoned the country before Hilton's arrival, and left a writing upon a post to the disparagement of the land and to the discouragement of all those that thereafter should come to settle there.<sup>1</sup>

The Lords Proprietors in May, 1663, met to devise their plans. The first measure adopted was that of a contribution of funds in the nature of a joint stock company for the transportation of colonists. Their second was the issu-

<sup>1</sup> Hawks's *Hist. of No. Ca.*, vol. II, 73; Hilton's *Voyage*; *Year Book Charleston* (Courtenay), 1864, 249; *A New Voyage to Carolina* (Lawson, 1709), 73.



ing of proposals upon the most liberal terms to encourage emigration to their territory. Publicity was given to these proposals, not only to obtain colonists under their charter, but also to counteract and warn the public against other proposals made in London by the New England adventurers, claiming title by occupancy — a singular claim, truly, for those who had not only abandoned the lands to which they had never had any legal rights, but had taken the pains to warn all others of their worthlessness. The Proprietors also took care to send to every one in London connected with the New England company copies of both the proposals purporting to have been made in the name of that company and of their own. A cautious reply was made by the New Englanders, which neither admitted nor denied the title of the Proprietors, but confessed their own abandonment of the country.

It now behooved the Proprietors, under the rule they themselves had had laid down by the Privy Council, to show some effort to settle the great domain granted them, and in order “that the King may see that wee sleepe not with his grants,”<sup>1</sup> they sent a commission to Sir William Berkeley, one of their number, then Governor of Virginia, constituting him Governor also of “All that Terrytory or tract of ground now called the Province of Carolina syctuate lyeing, and being within his Majestys Dominion in America extending from the north end of the Island called Lucke Island which lyeth on the Southern Virginia Seas and within 36 degrees of Northern Lattitude and to the west as far as the south seas aforesaid ; ”<sup>2</sup> that is, the territory between Virginia and Albemarle Sound, and which was by subsequent instruction to Drummond, the successor of Berkeley, to contain 1600 square miles — Albemarle

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 55.

<sup>2</sup> *Ibid.*, vol. I, 48.

County. They also determined at this time to lay off another county, — that of Clarendon; so on the 1st of November, 1664, Robert Samford (Sandford) was commissioned Secretary and Chief Register of the County of Clarendon, and on the 24th John Vassal was commissioned the Governor General,<sup>1</sup> — but its boundaries were not defined.

Sir John Yeamans had been in negotiation with the Proprietors, through his son Major William Yeamans, on behalf of himself and some eighty-odd other Barbadians, which resulted in the execution of an agreement on the 7th of January, 1664–65, entitled “The concession and agreements of the Lords Proprietors of the Province of Carolina to and with the adventurers of the Island of Barbadoes and their associates of England, New England, the CarriBBia Islands and Barmothos<sup>2</sup> to the Province of Carolina and all that shall plant there. In order to the settling and planting of the countye of Clarendine, the county of Albemarle and the county of . . ., which latter is to be to the southward and westward of Cape Romania all within the Province aforesaid.”<sup>3</sup>

These concessions constituted a very elaborate system of government for the proposed colony, and in pursuance of the agreement Sir John Yeamans was on the 11th of January commissioned Governor of the “County of Clarendon near Cape Faire and of all that tract of ground which lyeth southerly as farr as the River St Mathias which borderth upon coast of Florida within 31 degrees northern latitude and so west as farr as the South Seas as also all Islands and Islets Rivers and Seas within the said bounds, and our said Province of Carolina. With power to nominate appoynt and take to you 12 able men at most, 6 at

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 72, 73.

<sup>2</sup> Bermuda “still vexed Bermoothes.” *The Tempest*, 1–2.

<sup>3</sup> *Colonial Records of No. Ca.*, vol. I, Prefatory Notes xiv, 75–92.

least to be of your councile or assistance or any even number between 6 and 12 unless we have before made choyce or shall chuse all or any of them." Yeamans was also made Lieutenant General of the county and tract of ground aforesaid.<sup>1</sup>

By a memorandum at the time, it was agreed that although the County of Clarendon and all the tract of ground as far as the River St. Matthias and west as far as the South Seas was to be for the present under Sir John Yeamans, "yit notwithstanding it is ment and intended that that part of it which is about to be settled to the southward and westward of Cape Romania be a distinkt Government from the county of Clarendon, and that their be a distinkt deputy Governor for the present and that it be called the county of Craven, and as soon as it shall be settled by the said Sir John Yeamans or any other that there be a distinkt Governor commisionated to govern there."<sup>2</sup>

Some doubts, as we have seen, still lingered in regard to the titles under Sir Robert Heath's patent, and it was doubtless to settle these, as well as to enlarge the extent of the territory in America which England was disposed to claim, that a second charter was granted to the same noblemen on the 13th of June, 1665. The grant to Sir Robert Heath, which had not been formally declared forfeited at the time of the first charter of the present Proprietors in 1663, had now been so declared by the King in council, and it was deemed safest therefore for the present Proprietors to obtain another, dated subsequently to that declaration. The limits of the province were now enlarged to 29° in the south, instead of to the River St. Matthias (St. John's) and 36° 30'' on the north, includ-

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 97.

<sup>2</sup> *Ibid.*, vol. I, 93.



ing all within these parallels from the Atlantic to the "South Seas" <sup>1</sup> (Pacific); that is, besides the present State of South Carolina, the States of North Carolina, Tennessee, Georgia, Alabama, Mississippi, Arkansas, Louisiana, and Texas, the Indian Territory, New Mexico, Arizona, and the lower part of the State of California; a region which has in a great measure been peopled from the colony established under this charter, and governed by the political ideas emanating from the point of settlement at the junction of Kiawha and Wando rivers — the city by the sea — a region which, it will be observed, is almost coincident with the territory of the Confederate States in the War of Secession.

Rivers points out other differences between the charter of 1663 and that of 1665. In the first the territory was spoken of as one province. In the second, authority was given to subdivide it into counties, baronies, and colonies with separate and distinct jurisdictions, liberties, and privileges.

There is also some change in the terms of the clause requiring the assent of the freemen to the enactment of laws. In the first charter it was provided that all laws should be made "with the advice assent and approbation of the freemen of the *said province*." <sup>2</sup> In the second it was

<sup>1</sup> *1st Statute*, 32; *Colonial Records of No. Ca.*, vol. I, 102.

<sup>2</sup> The term "province" is defined to be "an out country governed by a Deputy or Lieutenant" (Jacob's *Law Dictionary*), and it has been said that the term is only properly applied to territories over which Governors were appointed by the King; and that the term "colonies" is properly applicable only to those in which the Governor was elected by the inhabitants. *Government of the Colony of So. Ca.* (Whitney); *Johns Hopkins University*, 13 series, 1-11, 22. But the terms "province" and "colony" are used convertibly throughout the *Statutes of the Proprietary Government of South Carolina*. More strictly speaking, it was the province of Carolina, and the colonies on the Ashley and at Albemarle, and afterwards the colonies of North and South Carolina.

made to read “by and with the advice assent and approbation of the freemen of the *said province or territory or of the freemen of the county barony or colony for which such laws or constitutions shall be made or the greater part of them.*” The intention of this was no doubt to allow the establishment of several colonies in the territory granted, but in doing so to secure the assent of the freemen of any such separate colony to the particular laws as a prerequisite to their enactment.

Another modification was in the article in regard to religion. In the first charter the Proprietors were given power to grant indulgences and dispensations to such persons who really in their judgment and for conscience' sake could not conform to the liturgy and ceremonies of the Church of England. Sir John Colleton in his communication to the Duke of Albemarle had intimated that the adventurers from Barbadoes expected something more explicit on this point; and some modification was now made, but it was very indefinite, and still left the extension of indulgences to the Proprietors. “And because,” said the new charter,<sup>1</sup> “it may happen that some of the people and inhabitants of the said Province cannot in their private opinions conform to the publick exercise of religion according to the liturgy form and ceremonies of the church of England or take and subscribe the oaths and articles made in that behalf, and for that the same by reason of the remote distances of those places will as we hope be no breach of the unity and conformity established in this nation,” it therefore granted to the Proprietors “full and free licence liberty and authority by such ways and means as they shall think fit to give and grant unto such person or persons inhabiting and being within the said province or territory . . . such indulgences and

<sup>1</sup> *Statutes of So. Ca.*, vol. I, 40.

dispensations” as the Proprietors “shall in their discretion think fit and reasonable, and that no person or persons *unto whom such liberty shall be given* shall be in any way molested punished disquieted or called in question for any difference in opinion or practice in matters of religious concernment who do not actually disturb the civil peace of the province county or colony that they shall make their abode in ; but all and every *such* person or persons,” that is, such person as the Proprietors should indulge, “may from time to time and at all times freely and quietly have and enjoy his or their judgments and consciences in matters of religion throughout the said province or colony, they behaving peaceably and not using this liberty to licentiousness nor to the civil injury or outward disturbance of others.” This second charter thus did nothing more than grant to the Proprietors the right and power to use their own discretion in the matter of religious liberty. It of itself granted to no inhabitant indulgences or dispensations or guaranteed religious liberty. It turned this great matter over to the Proprietors, guaranteeing only to them the power to act in regard to it.

Sir John Yeamans, on the 11th of January, 1664–65,<sup>1</sup> had been commissioned as Governor of the County of Clarendon and of all the territory as far as Florida. Under the commission a company “of adventurers for Carolina” was organized at Barbadoes, the members of which were to be entitled to 500 acres for every 1000 pounds of Muscovado sugar contributed.<sup>2</sup> In October following Yea-

<sup>1</sup> Throughout the Proprietary Government, and indeed until 1752, for the months of January and February, and to the 24th of March, dates are thus given, the alteration in the calendar which formed what is usually called the old and the new styles not having been adopted in England until 1752, by aid of Parliament of 1751. See note to page 84, *Statutes of So. Ca.*, vol. II.

<sup>2</sup> See the form of receipt given for the sugar, and claim for the land,



mans sailed from Barbadoes with his company in a "Fly boate of about 150 Tonns accompayned by a small Friggate of his owne and a Sloope purchased by a common purse for the service of the Colonyes."<sup>1</sup> These small vessels were soon separated at sea by a great storm, but were brought together again in the beginning of November and cast anchor before the mouth of Charles (Cape Fear) River, near Cape Fear, in the County of Clarendon. Upon entering the river the fly boat went aground and was wrecked. No life was lost, but the greater part of their provisions, victuals, clothes, and of the arms and ammunition furnished by the Lords Proprietors for the designed settlement was swept away in the waters.

The coast of Carolina from Cape Fear to St. Augustine was doubtless well known to the Spaniards, and still better to the pirates of all nations, who infested it and found shelter in its numerous bays and inlets. Its principal points were all named by the Spaniards. The first point south of Cape Fear was called Cape Romano. The bay into which the Kiawha and the Wando emptied was St. George's Bay. Then came St. Ellen's Sound and Port Royal, the River Jordan, the Savannah, and St. Matthias (the St. John's). Between the Indians on the coast and the Spaniards in Florida, there was close and more or less friendly intercourse. But the coast and country now included in the grant to the Proprietors were entirely unknown to Sir John Yeamans and his party. Upon arriving at Cape Fear, Yeamans's first purpose was therefore the examination and exploration of the country. For this purpose his intention was to repair the frigate, which, together with the sloop, had got safely into the

Dalcho's *Church Hist.*, 14, in which Yeamans styles himself *Lieutenant General and Governor of the Province of Carolina*.

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 119.

river, and to send her back to Barbadoes while he with Sandford, who had been appointed Clerk and Register of the new county, and who accompanied the expedition, and some other gentlemen of the party who offered to join them, proceeded upon a voyage of discovery to the southward. The great necessities of the colony, however, demanded that the sloop should first be sent to Virginia for supplies, and Sir John, permitting it to go, returned himself to Barbadoes in his frigate. The purpose of an exploration for the site of a southern settlement was not, however, abandoned. He left Sandford to carry it out, directing him to employ for the purpose either the sloop upon her return from Virginia, if in a fit condition for the purpose, or to hire a vessel of Captain Edward Stanyon, then in the harbor, bound for Barbadoes upon her return, whichever should first happen, and for this purpose he left also a commission for Sandford putting him in command of the expedition.

The sloop upon her return from Virginia was found unfit for the service. Captain Stanyon, in returning from Barbadoes, became demented, leaped into the sea, and was lost. His little vessel was, however, by a miraculous providence brought safely into port, and Sandford had now a vessel with which to undertake the expedition. Its burden, however, scarce exceeded fifteen tons.

Happily, Sandford has left us a most admirable account of the voyage, so clear in its statement that we may follow him and his company from point to point as he describes in quaint style the country, with its vast expanse of green marsh resembling a rich prairie, its broad and noble arms of the sea, rivers, and innumerable creeks fringed with oak and cedar and myrtle and jasmine—all now so familiar to us—as it appeared when first

visited by those who proposed to make this new country their home.<sup>1</sup>

On the 14th of June, 1666, near six months after the date of his commission, Sandford entered on his charge and on the 16th left Charles River in the Cape Fear, and sailed along the coast. He was accompanied by Captain George Cary, Lieutenant Samuel Hardy, Lieutenant Joseph Woory, Ensign Henry Brayne, Ensign Richard Abrahall, Mr. Thomas Giles, and several others to the number of seventeen besides himself. He took with him a small shallop of some three tons, belonging to the Lords Proprietors, in which he placed Ensign Henry Brayne, of some experience in sea matters. The shallop parted company with Sandford's vessel on the night of the 19th, it being very cloudy and dark.

On the 22d Sandford made land, and entered a fair river, and sailing up about four or five miles he came to anchor, when a canoe with two Indians approached. The Indians came aboard Sandford's vessel and informed him that this was the country of Edistoh, and that the chief town or seat of the Cacique was on the western shore somewhat lower down towards the sea, from which he supposed this to be the same river that Hilton had mentioned as the River Grandy, which he saw from sea, but did not enter. Sandford named it Harry Haven, in honor of his lieutenant. The next day, the 23d of June, he went with his boat into a creek on the east shore about a mile up, and landed. Then, according to instructions, he took formal possession by the ancient ceremony of turf and twig of the whole country from the latitude of 36° north to 29° south and west to the South Seas, by the name of the province of Carolina for his Maj-

<sup>1</sup> *Year Book City of Charleston* (Courtenay), 1885, 262; *Colonial Records of No. Ca.*, vol. I, 118.



esty Charles the Second, King of England, and to the use of the Proprietors. Sandford does not mention whether his landing was upon the eastern or western bank, so that it is impossible now to know whether this seisin for the King and the Proprietors was taken on Wadmalaw or Seabrook Island; but doubtless this formal entry into the territory of the new province was made in the North Edisto. He explored to some extent on both sides of the creek, passed through several fields of maize or Indian corn, and following the guidance of a small path was brought to some of the Indian habitations. The next day he went a few miles up the main river to the North Edisto, and finding a branch on the east side he put in there to examine the land. This he found firm and dry, a flat black mould with a scarce discernible mixture of sand founded on marl or clay. The land he esteemed very profitable and tillable, and some of his company discovered an Indian planted field, which they told him "bore as tall Maiz as any." He rowed up this creek and, besides the swamps, saw and ranged through very spacious tracts of rich oak land, though not yet past the oyster banks and frequent heaps of shells near the salt water. On his return down the river he stopped at the landing-place nearest to the chief seat of the Edistohs, so that the Indians might with less trouble come aboard to trade.

While lying there, a captain of the Nations, named Shadoo, one whom Hilton had carried to Barbadoes, was very earnest that some of the company would go with him and lie at night at his town, which he told them was but a small distance away. Lieutenant Harvey, Lieutenant Woory, Mr. Thomas Giles, and Mr. Henry Woodward offering themselves to go, and some Indians remaining on board, Sandford permitted their doing so. They returned the next morning, much pleased with their entertainment,

and especially with the richness of the land through which they had marched and the delightful situation of the town. The Cacique himself, however, had not appeared. His state was supplied by a female who received the party with gladness and courtesy. This induced Sandford to go himself, so, taking with him Captain George Cary and a file of men, he marched thither, followed by a long train of Indians, of whom some one or other always presented himself to carry Sandford on his shoulders over any of the branches, creeks, or damp places. The march tended to the southward of the west and consequently led near the sea coast, yet, says Sandford, it opened to their view so excellent a country both for woodland and meadow as gave singular satisfaction to all the company. Having entered into the town, the party were conducted into a large house of a circular form (their generall house of State). Opposite the entrance was a high seat, sufficient for half a dozen persons, on which sat the Cacique himself, with his wife (she who had received the party the evening before) on his right hand. The Cacique was an old man of large stature. Round the house on each side were lower benches filled with more women and children. In the centre a constant fire was kept burning on a great heap of ashes and surrounded with little low benches. Sandford and Cary were placed on the higher seat on each side of the Cacique, and presented with skins, accompanied with ceremonies of welcome and friendship. Sandford thus describes the town, which was probably somewhere near to the site of the present village of Rockville on Wadmalaw Island : —

“ . . . The Towne is scituate on the side or rather in the skirts of a faire forrest in which att severall distances are divers fields of Maiz with many little houses straglingly amongst them for the habitations of the particular families, On the East side and part of the South

it hath a large prospect over meadows very spacious and delightfull. Before the Doore of their State-house is a spacious walke rowed with trees on both sides tall & full branched not much unlike to Elms which serves for the Exercise and recreation of the men who by Couple runn after a marble bowle troled out alternately by themselves with six foote staves in their hands which they tosse after the bowle in their race, and according to the laying of these staves wine or loose the beeds they contend for; an exercise approveable enough in the winter but somewhat too violent (meethought) for that season and noon time of the day. From this walke is another lesse aside from the house for the children to Sport in."

After a few hours Sandford returned to his vessel with a great troop of Indians following him. The old Cacique himself came aboard his vessel and remained there that night without any of his people, some scores of whom, however, lay in booths on the beach. While he lay there Sandford learned that the river went through to another more westerly and was passable for his vessel. This increased his desire of passing that way, as he was persuaded from Hilton's map that the next river was the Jordan. So on the 27th of June, with the help of a flood tide, though the wind was contrary, he turned up the river, in which he found the channel six fathom deep and bold for a distance about ten miles from the harbor's mouth, where the river contracted between the marshes, but was seldom less than five fathom deep. The river being narrow and winding, no wind would serve long; so that for the most part he was forced to tow through, often against the wind, which proved very tedious, the more so as they could only proceed by day. So that it was Sunday morning, the 1st of July, before they came to the next westerly river and by it again to the sea.

From this description of his voyage it is very clear that Sandford passed by Jehossee Island through Dawhow River, from North to South Edisto. He was much puz-



zled on reaching the sea to find none of the marks which Hilton had indicated for the Jordan; and an evening storm driving him back into the river, he anchored and went ashore on the east point, and there he found Shadoo and several other Indians who had come by land across Edisto Island to see them come down the South Edisto. From these he learned that this was not the river in which Hilton had been. That Hilton had not known of it. The river in which Hilton had been was the next. When Sandford asked the name of this river, they answered him Edistows, and from this he says he learned that the Indians assigned names not to the rivers, but to the countries and people.

Amongst the Indians who had thus come to see him was one who had traded with the colony at the Cape Fear, and was known to them by the name of Cacique of the country of Kiawha. The Cacique was very urgent that Sandford should go to his country, assuring him of a broad and deep entrance and promising a large welcome and plentiful entertainment and trade. But Sandford told him he must first go to Port Royal and that on his return he would see his country. The Indian would not, however, leave Sandford, but to secure his return must needs accompany him to Port Royal as his pilot for that river. He sent his companion to give notice to the Chief Cacique of the place of Sandford's coming, that he might prepare food, and went himself on board of Sandford's vessel.

With the morning light, Sandford weighed and stood out to sea with an easy gale at northeast and an ebb tide; but, unacquainted with the coast, with which Shadoo himself does not appear to have been better informed, he ran upon the shoals, and nearly lost his vessel. From this he branded the place with the name of Port Peril. It is

the same that was then known to the Spaniards as St. Helena Sound. After clearing the sands, he stood out to sea, and sailing around St. Helena Island, he came to anchor off Hilton Head. Broad River, which had been called the Jordan, he named Yeamans Harbor, in honor of the Lieutenant General and Governor. Whilst there, he espied with great rejoicing the shallop which had been parted from them since the 19th of June. St. Helena Island he had named Cary Island, in honor of his lieutenant, and Hilton Head Island, Woory Island. The shallop had come out of Yeamans Harbor. Sandford fired a gun and ran up his colors to let Brayne know that they saw him, but could not get to him for the mud flats. On the 3d of July, he luffed into the bay, and steering away between Hilton Head and the entrance of Port Royal, about midnight came to anchor within Port Royal River in seven fathoms of water.

The next morning Sandford moved opposite to the principal Indian town, and anchored before it. He had not ridden there long before the Cacique of that country himself appeared in a canoe, full of Indians, presenting him with skins, and bidding him welcome after their manner. Sandford went ashore with the Cacique to see the town, which stood in sight of the vessel. This was doubtless, from the description, Paris Island between Port Royal and Broad River. Sandford found the town, as to the forms of building, in every respect like that of Edisto, with a plain before the great roundhouse for their bowling recreation. At the end of this, there stood a fair wooden cross, which the Spaniards had left; but it was not observed that the Indians performed any adoration before it. All round the town, for a great space, were fields of maize of very large growth. The soil was nothing inferior to the best he had seen at Edisto; apparently more

loose and light. The trees in the woods were much larger, all the ground under them covered with a great variety of pasturage. He saw there, besides a great number of peaches, some fig-trees very large and fair, both fruit and plants, and divers grape vines which, though growing without culture in the very throng of weeds and bushes, were filled with bunches of grapes, to his great admiration. Upon the whole, they esteemed the country superior even to Edisto. It was all cut up into islands made by the intervenings of rivers and creeks, yet of firm good lands, excepting what was marsh; nor were the islands so small, many of them containing thousands of acres of rich habitable woodland, whose very banks were washed by river or creek, contributing not only to the fertility, but to the convenience of portage.

After a few hours' stay, to view the land about the town, he returned to his vessel, and there found Ensign Brayne with his shallop, who had come that morning through the sound from Yeamans Harbor, at the mouth of which they had seen him two days before. He reported that the morning Sandford had gone into Edisto he sailed along until evening, when he had entered Yeamans Harbor, and not finding Sandford there and "guessing" that he might be more southerly, he came through Port Royal and acquainted himself with Wommony, the son of the Cacique, who had been to Barbadoes, and with whom he easily prevailed to bear him company as guide from place to place in the several creeks and branches; that under his protection he had had an excellent opportunity of viewing all that part of the country, which, says Sandford, "he did so loudly applaud for land and rivers that his company's commendations of Edisto could scarce outnoise him." Satisfied with Brayne's report, Sandford determined to lose no more time there, but to proceed up the main river and



see the country, and upon his return to enter a creek on the west shore, which Brayne had not explored; which he was the more desirous to do because the Indians reported that it led to a great southern river which pierced far into the country and he supposed might be the *Frenchman's River May* or the *Spaniard's St. Matthias*. With the flood tide and a favorable wind he sailed up the river in the shallop nearly thirty miles as he estimated it, passing where it divides itself into two principal branches, the westernmost of which he went up and landed. From this statement it appears that it was Coosawhatchie that he ascended. He found the ground rising and crossed several fine falls and one brook of sweet water, which ran murmuring between two hills. He was still more pleased with the country. The land here, he says, was such as made them all conclude not only a possibility that Edisto might be, but a certainty that it was, exceeded by the country of Port Royal. Tired with his march through a rank growth of vines, bushes, and grass, which fettered his legs and proclaimed the richness of the soil, Sandford returned to the boat and fell down with the ebb towards his vessel, passing divers fair creeks in each side, which time did not allow him to enter. Upon returning to his vessel, he then crossed the river into the western creek he had mentioned, which, after three or four miles, opened into a great sound full of islands. This was, without doubt, Calibouge Sound. He describes it as emptying into the sea by two or three outlets. He spent two days exploring the islands around, finding them of as good firm land as any he had seen, and better timbered with live-oak, cedar, and bay trees. He concluded from what he saw that on this sound alone habitation for thousands of people might be found, with conveniences for their stock of all kinds. In fine, he could see nothing here to be wished

for but a good store of English inhabitants. He gave to the sound his own name, but it has not retained it.

Returning to his vessel, on the 7th of July Sandford took in some fresh water, proposing that night to leave Port Royal and return homeward, the discovery he had made exceeding all his own and he was confident would answer all other expectations. He purposed also to spend some days in viewing the country of Kiawha, the Indian of that nation remaining still with him for the purpose of guiding him thither.

A little before night the Cacique of Port Royal came aboard, bringing with him his sister's son. He inquired of Sandford when he would return, and pointing to the moon asked whether he would come within three times of her completing her orb. Sandford told him no; but in ten months. He seemed troubled at the length of time and begged him to come back in five. Sandford insisted upon the first number he had given. This being settled, the Cacique gave Sandford the young fellow to take with him, telling him he must clothe him and bring him back when he returned. Then he asked Sandford when he would sail, and when informed that he would do so that night, he importuned him to stay till the next day, that he might prepare him some venison.

Sandford was much pleased with this adventure and with the offer of the Cacique to let his nephew go with him, he leaving an Englishman in his room, for the mutual learning of their language. This he could do, for one of his company, Mr. Henry Woodward, a surgeon, had proposed to stay with the Indians for the purpose. Sandford determined, therefore, to wait until the next morning, to see if the Indians would remain constant to their purpose. Then taking Woodward and the young man with him, in the presence of all the Indians of the

place and of the fellow's relations, he asked if they approved of his going with him. They all with one voice consented. He then delivered Woodward to the Cacique in the sight and hearing of the whole town, telling them that when he returned he would require him at their hands. They received Woodward with expressions of great joy and thankfulness. The Cacique placed him by himself on the throne and then led him forth and showed him a large field of maize, which he told him should be his; then brought him the sister of the young man who was going with Sandford, to tend and dress his victuals and to take care of him so that her brother might be better used by the white men. Sandford, after staying a while, being wondrous civilly treated after the manner of the Indians, and giving Woodward formal possession of the whole country to hold for the Lords Proprietors, returned aboard and immediately weighed anchor and set sail.

The morning of the 10th of July Sandford found himself before the river that led into the country of Kiawha in the present Charleston harbor, but the Indian of the place, who had remained with him all the while solely for the purpose of piloting him into the harbor, mistook the entrance, and Sandford under his direction had stood away some two leagues before the pilot saw his mistake. It was now too late, for the wind was so that he could not fetch the river again and even if the weather had been fair could not enter it before night; but the appearance of the heavens forbade his lying that night upon the coast. The river he described as lying between Harry Haven (Edisto) and Cape St. Romana, and found seven or eight fathoms of water very near the shore and not the least appearance of shoals or dangers in any part of it. It showed a very fair large opening, clear of any flats barring the



entrance — only before the eastern point he saw a beach, but which did not extend far out. He persuaded himself that it led to an excellent country, both from the commendation the Indian gave it and from what he had seen at Edisto. Wherefore, in hopes that it might prove worthy the dignity, he called the river Ashley, from the Right Hon. Lord Ashley, and to take away, he says, every vestige of foreign title, he blotted out the name of St. Romano and called the cape, Cape Carteret, in honor of Sir George Carteret, a Proprietor of Carolina.

On the 12th of July, about noon, Sandford and his company entered Charles River, the Cape Fear, and landed, to the great rejoicing of their friends, who received not, he says, their persons more gratefully than the favorable report they brought with them of the country they had seen and examined, in which they found ample room for many thousands secured from any danger of massacre with such accommodation, to boot, as scarce any place can parallel, in a clime perfectly temperate, and where the soil cannot fail to yield so great a variety of production as will give an absolute self-sustenance to the place without foreign dependence and also furnish a trade to the kingdom of England as great as that she has with all her neighbors, “and,” he concluded, “under our Sovereign Lord the King within his owne Dominions and the Lands possessed by his Naturall English subjects universall Monarch of the Traffique and comodity of the whole world.”

Chalmers in his *Political Annals*<sup>1</sup> asserts that Sir John Yeamans remained with the Barbadian colony on the Cape Fear and ruled them with the affection of a father, rather than with the authority of a Governor, and thus insured a seven years' peace to the attempted colony, which was only disturbed by the selfishness of individuals; and

<sup>1</sup> Carroll's *Coll.*, 289.

in this story he has been followed by other historians thus misled by him.<sup>1</sup> But Saunders, in his prefatory note to the first volume of the colonial records of North Carolina, points out the inaccuracy of this statement. Sir John, as we have seen, arrived there with his small colony in October, 1665, but abandoned them and returned immediately to Barbadoes; where he was a member of the King's Council, taking an active part in the affairs of the island during the years of his supposed benign rule at Cape Fear.

The Barbadian settlements on the Cape Fear were, in fact, broken up in the summer or early fall of 1667; the colonists not coming to South Carolina, as stated by Chalmers, but going, some up to the Albemarle settlement and some to Nansemond County in part, and in part to Boston.<sup>2</sup>

<sup>1</sup> *Hist. Sketches of No. Ca.* (Rivers), 71.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 148-151, 157-159, 177-208.

## CHAPTER IV

IN the early part of 1669 Lord Ashley, not yet the Earl of Shaftesbury, assumed a leading part among the Proprietors, and their previous indefinite policy in regard to the colonies was abandoned under his influence for a determined course. His first step was to prepare and formulate a plan of government for the great province they were to found. For this purpose he engaged the assistance of his friend, the celebrated philosopher John Locke, who was then living with him at Exeter House, his Lordship's London residence as his private secretary. The result of their collaboration was the production of the famous "Fundamental Constitutions" drawn by Locke in March of that year, and which, with some modifications, were solemnly adopted by the Proprietors in the July following.

This most extraordinary scheme of forming an aristocratic government in a colony of adventurers, in the wild woods, among savages and wild beasts began with this formal recital :—

"Our Sovereign Lord the King having out of his royal grace and bounty granted unto us the Province of Carolina with all the royalties, properties, jurisdictions and privileges of a County Palatine, as large and ample as the County Palatine of Durham with other great Privileges for the better settlement of the government of the said place, and establishing the interest of the Lords Proprietors with equality, and without confusion; and that the government of the Province may be made most agreeable to the Monarchy under which we live and of



which this Province is a part, *and that we may avoid erecting a numerous democracy*; we the Lords Proprietors of the Province aforesaid have agreed to the following form of governments to be perpetually established amongst us, and unto which we do oblige ourselves, our heirs and successors in the most binding ways that can be devised.”<sup>1</sup>

The charter constituted the province a County Palatine. The first provision necessary therefore was to determine who should be the Palatine. The first clause of the constitution accordingly provided that the eldest of the Lords Proprietors should be the Palatine; and upon his decease the eldest of the seven surviving Proprietors should always succeed him. Then seven other chief officers were provided, viz. an Admiral, Chamberlain, Chancellor, Constable, Chief Justice, High Steward, and Treasurer, the places of which should be enjoyed by none, but the Lords Proprietors to be assigned at first by lot, and upon the vacancy of any one of these seven great offices by death or otherwise the oldest Proprietor should have his choice of such place.

Seizing upon the clause in the charter which we have traced from that of Sir Robert Heath, which empowered the Proprietors to confer marks of favor and titles of honor upon such of the inhabitants of the said province as they should think fit, and as this instrument expressed it, in order that the government might be made most agreeable to monarchy and avoid erecting a numerous democracy, the whole province was to be divided into counties; each county into eight seignories, eight baronies, and four precincts; each precinct into six colonies. These territorial divisions were made for the support of the proposed aristocracy, and for this purpose it was provided,

“4 Each signory, barony, and colony shall consist of twelve thousand acres; the eight signories being the share of the eight proprietors, and the eight baronies of the nobility; both which shares being each

<sup>1</sup> *Statutes of So. Ca.*, vol. I, 43; *Colonial Records of No. Ca.*, vol. I, 157.

of them one fifth of the whole are to be perpetually annexed, the one to the proprietors, and the other to the hereditary nobility; leaving the colonies, being three fifths among the people; so that in setting out and planting the lands, the balance of the government may be preserved."

As each seigniory, barony, and colony contained 12,000 acres, each county was made to contain 480,000 acres, or 750 square miles. Of this land the eight Proprietors would have 96,000 acres; and as there were to be as many Landgraves as counties, and twice as many Caciques, each Landgrave's share was appointed to be four baronies, or 48,000 acres, and each Cacique's share two baronies, or 24,000 acres. There were left three-fifths of each county, or 288,000 acres, for the people.<sup>1</sup>

Until the year 1701 the Proprietors were to be allowed to dispose each of his proprietorship, and of his seigniories and powers; but after that time no Proprietor was to be allowed to alienate his proprietorship with its seigniories, baronies, and privileges, but for a term of three lives or twenty-one years; and that only to the extent of two-thirds, the remaining third to be always in demesne, *i.e.* in the Proprietor's own actual possession, and not under lease to tenants. The proprietorship, with its lands and privileges, was to descend to the heirs male, and for want of such heirs, to a Landgrave or Cacique of Carolina, who was descended from the next heirs female of the Proprietor; if none, to the next heir general; and for want of any such heirs the remaining seven Proprietors were authorized to choose a Landgrave to succeed to the deceased Proprietor; and it was required that whoever succeeded a Proprietor, either by inheritance or choice, should take the name and arms of the Proprietor whom he succeeded,

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 83.

which should thenceforth be the name and arms of his family and their posterity.

Besides the Proprietors, the nobility was to consist of Landgraves and Caciques. These terms were chosen because by the provision of the charter it was required that the title was to be unlike those of England. The title Landgrave was borrowed from the old German courts; and that of "Casique" or "Cacique" from the style of the Indian chiefs of America. There were to be as many Landgraves as there were counties, and twice as many Caciques, and no more. These were to constitute the hereditary nobility of the province, and by right of their dignity to be members of Parliament. Each Landgrave was to have four baronies, and each Cacique two baronies hereditarily and unalterably annexed to and settled upon the dignity. The same rules of alienation and descent as to the lands and dignities of the Landgraves and Caciques were laid down as were prescribed for the proprietorship.

Besides the seigniorship of the Proprietor, the barony of the nobility, and the colony or precinct of the commons, another subdivision was allowed, — that of the manor, which was to consist of not less than 3000 acres, and not above 12,000 in one entire piece, and in one colony; the mere possession by one, however, of such a tract did not constitute it a manor unless it was so ordered by a Palatine Court. A lord of a manor within his own manor was to have all the powers, jurisdictions, and privileges which pertained to a Landgrave or Cacique in his barony.

It was provided that "In every signory, barony and manor all the leet-men shall be under the jurisdiction of the respective lords of the said signory, barony or manor without appeal from him." This provision was a revival and adaptation of the ancient system of the hundred, under which in England a court-leet was held once a year within



each particular hundred, lordship, or manor, and to which court all the freeholders within the precinct above the age of twelve and under sixty, excepting peers, clerks (*i.e.* clergy), women, and aliens, whether masters or servants, owed their personal suit and attendance, and were to be sworn as to their fealty and allegiance. The court-leet in England was charged with the preservation of the peace, and had jurisdiction over small offenders against the public good.<sup>1</sup>

But while new and oppressive provisions were imposed by these constitutions, such as that no leet-man or leet-woman should have liberty to go off from the land of his or her lord, and live anywhere else without leave obtained from the said lord under hand and seal; and while the existence of the court-leet was at least impliedly recognized in the provisions that the lord of the seignior, barony, or manor should have jurisdiction without appeal over his leet-men, and prescribing that no one should be capable of having a court-leet but a Proprietor, Landgrave, Cacique, or lord of manor, no provision was made for the holding of such courts, but, on the contrary, their organization and jurisdiction, as they prevailed in England, were given to County and Precinct courts.

Who were to be leet-men was not declared save in the clause "whosoever shall voluntarily enter himself a leet-man in the registry of the County Court shall be a leet-man." The only inducement held out for one thus voluntarily to put himself within the absolute control of his lord was that the lord should, "upon the marriage of a leet-man or leet-woman, give them ten acres of land for their lives, they paying to him therefor not more than one-eighth part of all the yearly produce and growth of the said ten acres." Could the framers of this instrument,

<sup>1</sup> Blackstone's *Com.*, vol. IV, 273.

philosophers or statesmen, suppose that for the rental of those few acres upon marriage, freemen would have thus enslaved themselves?

Eight Supreme Courts were provided; the jurisdiction of these courts was legislative as well as judicial. The first was the Palatine Court, consisting of the Palatine and the other seven Proprietors. This court with its vice-regal power corresponded to the King in the monarchy of England, but with even greater relative power in its limited sphere. It was the source of all law and the final arbiter of justice. The other seven courts each consisted of one of the other seven great officers and six counsellors.

To the Chancellor's Court belonged all matters of State and treaties with the neighboring Indians, all invasions of the law of liberty of conscience, and all invasions of the public peace upon pretence of religion, as also the license and control of printing.

The Chief Justice's Court had jurisdiction of all appeals both civil and criminal, except such as fell under the jurisdiction and cognizance of any other of the Proprietors' courts.

The Constable's Court had the order and determination of all military affairs by land, and of all land forces, arms, ammunition, and whatever belonged unto war.

The Admiral's Court had the powers of a court of admiralty, with power to appoint judges in port towns to try cases belonging to the law-merchants as should be most convenient for trade.

The Treasurer's Court was charged with the care of all matters that concern the public revenue and treasury.

The High Steward's Court had the care of all foreign and domestic trade, manufactures, public buildings, work-houses, highways, passages by water above the flood tide, drains, sewers, and banks against inundations, bridges,

posts, carriers, fairs, markets, corruption or infection of the air or water, and of all things in order to the public commerce and health, the surveying of lands, and the appointing places for towns.

The Chamberlain's Court had the care of all ceremonies, precedence, heraldry, reception of public messengers, pedigrees, the registration of births, burials, and marriages, legitimation, and all cases concerning matrimony; and had power also to regulate all fashions, habits, badges, games, and sports.

There was to be a Grand Council consisting of the Palatine, seven Proprietors, and the forty-two counselors of the several Proprietors' courts, which should have power to determine any controversy that might arise between any of the Proprietors' courts about their respective jurisdictions. This body was also to prepare all matters to be proposed in Parliament, and no matter whatsoever was allowed to be introduced in Parliament which had not first been considered by it; after which, having been read three several days in Parliament, it was by majority of votes passed or rejected.<sup>1</sup> The Grand Council was to meet the first Tuesday in every month. The quorum was but thirteen, whereof a Proprietor or his deputy should be always one. The Palatine or any of the Lords Proprietors were empowered under their hands and seals to be registered in the Grand Council, to make a deputy who should have the same power to all intents and pur-

<sup>1</sup> The precedent for this provision was probably found in that of Poyning's law in regard to Ireland, of 1494 (the great bone of contention in the later days of Flood and Grattan), under which no matter could be moved or considered in any Parliament of Ireland until it had been considered, approved, and certified under the great seal of England. By which means nothing was left to an Irish parliament but a power of passing or rejecting such measures as were proposed to them. Blackstone's *Com.*, vol. I, Intro., § 4; Green's *Hist. of the English People*, vol. II, 73.



poses as he who deputed him except the confirming acts of Parliament and nominating and choosing Landgraves and Caciques. The eldest of the Lords Proprietors who should be personally in Carolina should, of course, be the Palatine deputy.

County and Precinct courts were provided, as before intimated, for the trial of small causes, civil and criminal. For treason, murder, and all other offences punishable by death, a commission twice a year at least was to be granted to one or more members of the Grand Council who should come as itinerant judges to the several counties, and with the sheriff and four justices hold assizes to judge all such cases. From the Court of Assizes an appeal was allowed to the respective Proprietors' court, but only upon the payment of £50 sterling to the Lords Proprietors' use. These courts of assize were to be held quarterly, not exceeding twenty-one days at any one time.

None but freeholders could be jurymen. Every jury was to consist of twelve men, but it was not necessary that all should agree; the verdict was to be rendered according to the consent of the majority. There was then a curious provision taken, doubtless by Locke, from the Cincian law of Rome, which declared it to be a base and vile thing to plead for money or reward, and forbade that any, except a near kinsman, should be permitted to plead another's cause until he had taken an oath in open court that he had not directly or indirectly bargained with the party whose cause he was going to plead, for money or other reward.

The object of this provision, it has been observed, is manifest. It was to make of pleading before the courts of justice a patrician privilege, and thus secure to the governing class the immense influence which attaches to the administration of the law. And the result would

have been to have made of the profession a class within a class, invested even with higher power and more extensive influence than the body to which it belonged.<sup>1</sup>

There was to be a biennial Parliament, to consist of the Proprietors, or their deputies, the Landgraves and Caciques, and one freeholder out of every precinct, to be chosen by the freeholders. Like the ancient Scotch Parliament, all were to sit together in one room and each member to have one vote. It is evident that the representation of the commonalty would have but little influence in such a body, by the very constitution of which they were in a hopeless minority; but the provision that no business should be allowed to be proposed until it was debated in the Grand Council, whose duty it was, like the Lords of Articles in the Scotch constitution, to prepare bills for Parliament, reduced them still more to the position of mere witnesses to the action of others whose proceedings they could not control.

The freeholders of the respective precincts were to meet to choose Parliament men every two years at the same place unless the steward of the precinct, upon proper notice, appointed some other place. The manner of these elections was not prescribed; but without doubt they were intended to be by poll, as it was especially provided that all elections in the Parliament itself, in the several chambers of the Parliament, and in the Grand Council should be by balloting. As far as is known, however, no election ever took place in South Carolina except by ballot.

To avoid a multiplicity of laws which it was said by degrees always change the right foundations of the original government, all acts of Parliament, it was provided, should, at the end of a hundred years after their

<sup>1</sup> Oration of William Henry Trescot, before Historical Society, *Coll. Hist. of So. Ca.*, vol. III, 28.

enactment, “cease and determine,” *i.e.* come to an end of themselves without repeal. And since, continued these wise lawmakers, multiplicity of comments, as well as of laws, have great inconveniences, and serve only to obscure and perplex, all manner of comments and expositions on any part of these Fundamental Constitutions or upon any part of the common or statute laws of Carolina are absolutely prohibited.

A registry was provided in every seigniory, barony, and colony, wherein were to be recorded all births, marriages, and deaths. The time of every one’s age that is born in Carolina, it was declared, should be reckoned from *the day that his birth is entered in the registry, and not before*. No marriage was lawful until both parties owned it before the Register. No administration upon the goods of a deceased person was allowed until his death was registered. Neglect to register a birth or death subjected the person in whose house or ground the birth or death took place to a fine of one shilling per week. The births, marriages, and deaths of the Lords Proprietors, Landgraves, and Caciques were to be registered in the Chamberlain’s Court.

All incorporated towns were to be governed by a mayor, twelve aldermen, and twenty-four of the common council; the common council to be chosen by the householders of the town, the aldermen to be chosen out of the common council, and the mayor out of the aldermen by the Palatine’s Court.

The provisions in regard to religion were also remarkable. It was especially provided that “no man shall be permitted to be a freeman of Carolina, or to have any estate or habitation within that doth not acknowledge a *God*, and that *God* is publicly and solemnly to be worshiped.” But as it was expected that those who would



plant themselves in the new colony would unavoidably be of different opinions concerning religious matters, the next article went on to provide that "any seven or more persons agreeing in any religion should constitute a profession to which they should give some name." The terms of admittance and communion with any such church or profession were to be written in a book, and subscribed by all the members, and the book be kept by the public Register. These terms were to comprise three, without which no agreement or assembly of men should be accounted a church or profession within the rules.

These were : —

"1st. That there is a God.

2d. That God is publickly to be worshiped.

3d. That it is lawful and the duty of every man being thereunto called to bear witness to the truth, and that every church or profession shall in these terms of communion set down the eternal way whereby they witness a truth as in the presence of God whether it be by laying hands on or kissing the bible, as in the church of England or by holding up the hand, or any other sensible way."

In the copy of these constitutions to be found in the Statutes of South Carolina there appears the following : —

"96' (As the country comes to be sufficiently planted, and distributed into fit divisions, it shall belong to the Parliament to take care for the building of churches and the public maintenance of divines, to be employed in the exercise of religion, according to the Church of England; which being the only true and orthodox, and the national religion of all the King's dominions is so also of Carolina, and therefore it alone shall be allowed to receive public maintenance by grant of Parliament)."

In a note to these constitutions appended to Locke's works, it is said that this article was not drawn up by him, but inserted by some of the chief of the Proprietors against his judgment, as Locke himself informed his friends to whom he presented a copy of them.<sup>1</sup> But

<sup>1</sup> Locke's works (4th ed., MDCCLIX), vol. III, 376.

Anderson, in his history of the colonial church, observes that it is difficult to understand the grounds on which such an objection, if made, could have been rested. For if it be true, it was nothing else than objecting to a corollary inevitably deduced from the terms of the only instrument which gave to the Proprietors or to any one interested in the welfare of Carolina the right to legislate therefor. He points out also that the statement does not altogether agree with another made in a history of Locke's life prefixed to his works, *i.e.* that it was inserted not by the influence of any of the Proprietors, but because some of the clergy, jealous of the other liberal provisions in regard to religion contained in the other clauses of the constitution, expressed their disapprobation and procured the insertion of this article. The point of this argument is that when Locke undertook to draw this body of laws, he necessarily consented and undertook to draw them so as to conform to the requirements of the Royal charter, — the authority upon which they must ultimately rest, and by which they must be controlled, — and that as that charter of itself established the church, the constitution to be prepared by him must necessarily have provided for carrying out that purpose.<sup>1</sup>

A manuscript copy of the constitution, still to be found in the Charleston Library, which tradition asserts to be in the handwriting of the celebrated draftsman, Locke himself, bearing date the 21st of July, 1669, does not contain this clause. The historian Rivers does not, however, believe this manuscript to be Locke's, but considers it a transcript sent out with Sayle.<sup>2</sup> However interesting

<sup>1</sup> Anderson's *History of the Colonial Church*, vol. I, 321–323.

<sup>2</sup> In this Mr. Rivers is corroborated by Mr. W. Noel Sainsbury, assistant keeper of the public records in the State paper office, London, the best authority upon the subject, who writes, December, 1875: "After



this question may be historically, involving as it does the existence of the very paper upon which the province of Carolina was founded, and its preservation upon the spot on which it was first read and attempted to be put in force, now two hundred and twenty-seven years ago, the presence or absence of this clause in the constitution was not a matter affecting the government of the colony, inasmuch as its purpose was already carried out in the Royal charter itself by which the Church of England was established as the church of the province. It is curious to observe, however, as illustrating the early disregard by the Proprietors of the terms of their charter which became habitual, that the reason they allege for the establishment of the church is not that it is so already prescribed in that instrument as one of the conditions of their title, but because it is the only true and orthodox and national religion, and is, therefore, alone to receive public maintenance. The fact is that the liberality of the constitutions themselves, for which Locke has been praised, was enjoined by the Royal charter which prohibited the interference with or punishment of any for difference in opinion or practice in matters of religious concurrence which did not disturb the civil peace of the province.

Passing from these provisions to secure liberty of conscience, and others to protect the native Indian and to give him an opportunity to learn for himself the reasonableness of the Christian religion and the peaceableness and unoffensiveness of its professors by their good usage and persuasion, — precepts which all European colonists habitually disregarded and atrociously violated, — these

comparing very carefully the Charleston fac-simile herewith returned, with Shaftesbury MS. and with many other papers in Locke's handwriting, I am of opinion that it is *not* in Locke's handwriting, but that it is a cotemporary copy." MS. letter, Charleston Library.



constitutions drawn by him who, in a subsequent treatise on government, approves the doctrine that slavery was but a state of warfare continued,<sup>1</sup> proceed to enjoin that "every freeman of Carolina shall have absolute power and authority over his negro slave of what opinion or religion soever." The full significance of this provision we shall have occasion hereafter to disclose when we come to treat of the institution of African slavery in the colony.<sup>2</sup> For the present it is enough to observe that the existence of the institution as a rightful and legal one was thus recognized, and provision made in advance for its introduction into the province.

In order firmly to establish and maintain these Fundamental Constitutions, it was provided that a true copy of them should be kept in a great book, by the register of every precinct, and that no person of what degree or condition soever above seventeen years old should have any estate or possession in Carolina, or protection or benefit of the law, who did not subscribe a pledge with his utmost power to defend and maintain them.

It is remarkable that in preparing and adopting these Fundamental Constitutions, the Proprietors were oblivious of the essential fact that under the Royal charter, by which alone they could prescribe constitutions and laws for the province which had been granted them, it had been expressly prescribed that such laws could only be enacted "by and with the advice assent and approbation of the Freemen of the said Province or of their delegates or deputies." Was it likely that such freemen would ever consent to the establishment of a form of government

<sup>1</sup> Locke's works, vol. II, 173.

<sup>2</sup> See "Slavery in the Province of South Carolina, 1670-1770," by Edward McCrady, *Annual Report of the American Historical Association*, 1896, 652-654.

the chief scope and object of which was to transfer the rights which had been secured them by the Royal charter to an aristocracy over whom they could have no control? Such a doubt seems never to have occurred to the Proprietors. Still more strange does this appear when we consider that these Proprietors were seeking to induce emigrants to settle in their new province rather than in the older colonies, which were guaranteeing to all such liberty and equality. We must remember, however, that it was about this time that Sir William Berkeley, one of their body, then in America, as Governor of Virginia, on the eve of Bacon's Rebellion, concluded a report upon that colony with the famous declaration: "I thank God that there are no free schools, no printing, and I hope we shall not have these hundred years; for learning has brought disobedience into the world, and printing has divulged them and libels against the best governments."<sup>1</sup>

These constitutions doubtless expressed the reactionary sentiment of the Restoration. It will be made to appear in the course of this work that South Carolina was foremost in her efforts to establish free schools and to provide for the education of her children, the poor as well as the rich, yet in this the first body of laws proposed for her government by absentee Lords, though devised and framed by a student and a philosopher, there was no mention, even, of a school. Public schools were not in accordance with the spirit of the times in England or elsewhere, and it is evident from his essay on education written twenty-four years after that Locke was even then opposed to the gathering together of youths in schools, holding that this manner of education was more productive of forwardness, mischief, and vice than of learning and the graces.<sup>2</sup>

<sup>1</sup> *Virginia*, American Commonwealth Series (Cooke), 226.

<sup>2</sup> Locke's works, vol. III, *Thoughts concerning Education*, 70.

The whole scheme of the Fundamental Constitutions was visionary, crude, incomplete, and impracticable. For a province yet to be settled, in which society must build itself up from its very foundation, at first at least, beginning in its simplest and rudest forms, an elaborate and intricate system of government was provided, among the regulations for which it was deemed opportune to establish a court of heraldry with power to regulate fashions, games, and sports. It is difficult to use the language of moderation in discussing the provision prohibiting comments or expositions of the law, upon the ground that such would tend to obscure and perplex its text. No less preposterous was that declaring that one's age should be reckoned only from the day on which his birth was registered, and not from that on which he was born. It is hard to realize that the author of the *Two Treatises on Government* of 1689 could have been the designer and framer of the Fundamental Constitutions of Carolina in 1669. But there was twenty years' difference between the times in which they were composed, and though in that time the philosopher had not risen to the conception of a school system for the new country, he had experienced the frowns of restored royalty and had followed his patron to Holland; for thither the Earl of Shaftesbury had only escaped with his life from the tower and there, like his co-proprietor Clarendon, with whom he had quarrelled and against whom he had intrigued, Shaftesbury was to die in exile.

In the dedication of a collection of several of Locke's pieces published under the direction of Anthony Collins, the writer discussing the relative advantages which are possessed by a philosopher over a courtier or politician in the preparation of such a work, it is said that though some may be of opinion that in the matters of state the politician ought to have the preference, this will not in the least



diminish the value of the Fundamental Constitutions, since not only a philosopher, but a politician of the first rank, was concerned in them.<sup>1</sup> It is well that Shaftesbury's reputation, we will not say as a politician but as a statesman, and Locke's as a philosopher, rest upon other works than this extraordinary product of their joint labors.

Regarding the Fundamental Constitutions as fully established, — though the consent of the freemen had not been obtained, — the Proprietors then resident in England proceeded to establish a government under them. On the 21st of October, 1669, they met at the Cockpitt to organize the Palatine's Court, whereupon as the Earl of Clarendon was in exile, deserted by his Royal master, Monk, the Duke of Albemarle, was elected the first Palatine; the Earl of Craven, the first High Constable; the Lord Berkeley, the first Chancellor; the Lord Ashley, the first Chief Justice; Sir George Carteret, the first Admiral. Sir John Colleton had died in 1666, leaving Sir Peter, his son, his heir, so the latter was chosen the first High Steward.<sup>2</sup> Sir William Berkeley, as has been mentioned, was in America as Governor of Virginia. In this in the outset there was constituted an anomaly. The scheme of the constitution was that of a government of different parts, but of one system — a system of government for the province, and presumably to be carried on in the province. But the Palatine's Court was thus in the initiation of the government established in London.

This body of laws never received the necessary assent and approbation of the freemen of the province, and so was never constitutionally of force; but though not having the formal sanction of the charter, it is undoubtedly true that its provisions had a marked effect upon the

<sup>1</sup> Locke's works, vol. III, 652.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 179.

institutions of the colony and impressed upon the people, and upon their customs and habits, much of the tone and temper of its spirit. Seigniories, baronies, colonies, and manors were actually laid out, and Landgraves and Caciques appointed, some of whom took possession of their baronies. Some tracts of land in the lower part of South Carolina still, in part at least, bear the names then given them; such, for instance, as the Colleton Barony, the Wadboo Barony, the Broughton Barony, etc. The power to confer titles of honor under the charter, it will be observed, restricted the bestowal of them upon "*such of the inhabitants of the said Province*" as the Proprietors should think merited the honor; but the Proprietors disregarded the restriction, and bestowed them upon persons who had never been in the colony. Thus, for instance, John Locke himself was the first Landgrave made. There is no record that Landgraves James Carteret, Thomas Amy, John Price, Abel Kettleby, or Edward Jauks (or Jenks) or Thomas Lowndes were ever in Carolina. By the constitutions the eldest of the Lords Proprietors, who should be personally present in Carolina, was thereby in fact the deputy of the Palatine, and if no Proprietor nor heir apparent of a Proprietor should be here, then the Palatine should choose for deputy any one of the Landgraves of the Grand Council who should be in the colony. It was probably to meet the provision of the constitutions that all or nearly all the Governors under the Proprietors were made Landgraves, and thus became deputies of the Palatine. Besides the Governors, but three or four Carolinians, *i.e.* inhabitants of the province, were deemed worthy of being appointed Landgraves.<sup>1</sup> By the constitution Landgraves and Caciques were not

<sup>1</sup> See Appendix for Devolutions of Proprietary shares and list of Palatines, Landgraves, Caciques, and also of Governors.

allowed after the year 1701 to alienate or assign their dignities, and yet Thomas Lowndes in 1728 procured a patent as assignee of John Price, neither having ever been in the province.<sup>1</sup>

The Proprietors were sensible, however, that such an elaborate scheme of government could not be put into immediate operation, and though for thirty years they persisted in their efforts to impose its provisions upon the province, they found it necessary in sending out their first colony to provide some temporary laws for the government of the adventurers who composed it. These rules were embodied in the commission and instruction of the Governor.

<sup>1</sup> *Coll. Hist. of So. Ca.*, vol. I, 174.



## CHAPTER V

1669-70

THE failure of the colony at Cape Fear and the glowing account which Sandford had given of the country at Port Royal turned the attention of the Proprietors to the latter point, and induced them to devote their efforts to the establishment of a settlement there. In 1667 they fitted out a ship, gave the command of it to Captain William Sayle, and sent him out to bring them some further account of the coast. In his passage Captain Sayle was driven by a storm among the Bahama Islands, which accident he improved to the purpose of acquiring some knowledge of them, particularly of the Island of Providence, which he judged might be of service to the intended settlement of Carolina; for in case of an invasion from the Spaniards, this island fortified might be made to serve as a check to the progress of their arms or a place of retreat to unfortunate colonists. Leaving Providence, he sailed along the coast of Carolina, where he observed several large navigable rivers emptying themselves into the ocean, and a flat country covered with woods. He attempted to go ashore in his boat, but observing some Indians on the banks of the river he was deterred; and having explored the coast and mouths of the rivers, he took his departure and returned to England. Why he was so easily frightened by the Indians does not more particularly appear; but though he did not land,

he made a most favorable report to his employers, praised their possessions, and encouraged them to engage with vigor in the execution of their project. His report respecting the Bahama Islands induced the Proprietors to apply to the King for a grant of them also, and his Majesty added those between the twenty-second and twenty-seventh degrees to their former dominion.<sup>1</sup>

No longer depending upon the attempts at colonization from Barbadoes alone, arrangements were now made to send out an expedition to Port Royal which was to be composed of emigrants from England, reinforced by others from Ireland, Barbadoes, and Bermuda. By articles of agreement signed by all the Proprietors, each undertook to contribute £500, equal at that time probably to about £2000 or £2500 of present money,<sup>2</sup> to be laid out in ship-

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, 47, 48.

<sup>2</sup> It must be borne in mind that the purchasing power of money, *i.e.* its value, while constantly fluctuating, was formerly much greater than at present. Adam Smith states that during the sixteenth and the first half of the seventeenth century it fell to about a fourth of what it had been previously, so that the heirs of one who had bought a perpetual annuity in 1490 of £100 a year were not receiving in reality, in 1650, more than £25 in comparison with that of 1490. *Wealth of Nations*, vol. IV, 213. Froude estimated for the same time, *i.e.* the time of Henry VIII, that for a penny a laborer could buy as much beef, beer, and wine as the laborer of the nineteenth century could for a shilling; that is, that the purchasing power of a penny was in the time of Henry VIII twelve times of the value it maintained when he wrote. *History of England*, vol. I, 34. These estimates do not exactly coincide, but they agree in the fact of the great depreciation of money value. Mr. Alexander Brown, in his *Genesis of the United States*, 810, estimates the subscriptions to the Virginia Company, 1610-20, at from four to five times the present value of the pound sterling, making the pound at that time equal to \$20 to \$25 of our present currency. This estimate has been adopted by Mr. Bruce in his *Economical History of Virginia*, vol. I, 28, vol. II, 172, 247, 249, etc., as a rough measure of the value of the pound in the seventeenth century. This may be accepted as approximately correct, but it must be remembered that the value of money, while generally depreciating, was subject

ping, arms, ammunition, tools, and provisions for the settlement of Port Royal, and a further sum of £200 per annum for the next four years. It was further agreed that any Proprietor neglecting or refusing to pay in any of the said sums should relinquish and convey his share to the rest of the Proprietors. A fleet of three ships was purchased at a cost of £3200 16s. 6d.; viz. the *Carolina*, Captain Henry Braine master,<sup>1</sup>—the same who had accompanied Sandford in his voyage to Port Royal, the *Port Royal*, John Russell master, and the *Albemarle*, Edward Baxter master. These vessels were laden with stores, merchandise, munitions of war, and all equipments necessary for planting a colony of two hundred people; a number which was believed would be strong enough for self-protection and to make a permanent settlement.<sup>2</sup>

On the 27th of July, 1669, Mr. Joseph West was appointed Governor and Commander-in-chief of the fleet and of the persons embarked in it bound for Carolina until its arrival in Barbadoes, or until another Governor was appointed. Mr. West's instructions accompanying his commission as Governor directed him with all possible speed to sail for Kinsale in Ireland, where he was to procure twenty or twenty-five servants, and then to sail directly to Barbadoes. God sending the fleet safe to Barbadoes, Mr. West was there to furnish himself with

to continuous fluctuation as it is to-day. In this instance we think the value of the money agreed to be contributed by the Proprietors may with some certainty be accepted as stated in the text as from four to five of the present value of the pound.

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury, London, 1859), Preface and 54, 55, 99.

In Sandford's account of his voyage the name is spelled *Brayne*, as in the third chapter of this work.

<sup>2</sup> *Shaftesbury Papers; Year Book City of Charleston* (Courtenay), 1883, 365; Oldmixon, *Carolina*.



cotton seed, indigo seed, ginger roots, which roots he was to carry planted in a tub of earth so that they might not die before their arrival at Port Royal ; also, in another tub, he was to carry canes, planted for trial, also the several sorts of vines of that island, and olives, all of which would be procured by Mr. Thomas Colleton, to whom the fleet was consigned. The most minute instructions were also given for his conduct at Port Royal, — the clearing of the lands, building of houses, planting the seeds, and the care of cattle which were to be procured from Virginia. He was to take from Barbadoes half a dozen young sows and a boar, which were to be furnished by Mr. Thomas Colleton if his own funds were not sufficient. Mr. John Rivers, who was to go out as the agent of Lord Ashley, was to take charge of the storehouse containing the materials of war, and to give them out only as directed by the Governor and Council. Captain Henry Braine was placed under the command of West until the arrival of the fleet at Barbadoes, when he was to obey the Governor to be appointed, and to return from Port Royal to Barbadoes, or to go to Virginia, as he should be directed by Sir John Yeamans, Mr. Thomas Colleton, and Major Kingsland. If he was sent to Virginia, he was then to take in passengers and other freight for Port Royal.<sup>1</sup>

Sir John Yeamans, though actively engaged in the political affairs of Barbadoes, still bore the commission of Governor and Lieutenant Governor of Carolina, but his ill success with his colony at Cape Fear had cooled the fervor of the Proprietors, and, though they recommended the expedition to his care and assistance, did not directly reappoint him its Governor, but sent a blank commission to be filled by him according to circumstances.<sup>2</sup> With the

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 92, and Appendix, 342-345.

<sup>2</sup> *Year Book City of Charleston*, 1883 (Courtenay), 368.

commission in blank were also sent deputations from the Proprietors respectively, also in blank, to be filled as was the Governor's. The deputies to be thus appointed were to form the Governor's Council, and for their guidance instructions were annexed to the commissions and deputations.

These instructions<sup>1</sup> began with the observation that as the number of people to be set down at Port Royal would be so small, and as there were as yet no Landgraves and Caciques, it would not be possible to put the grand model of government at once into practice. Notwithstanding this, however, in order that they might come as nigh as possible thereto the Governor and Council were instructed :

1. As soon as they arrived at Port Royal they were to summon all the freemen in the colony and require them to elect five persons, who, being joined to the five deputed by the respective Proprietors, were to be the Council, with whose advice and consent, or of at least six of them, all being summoned, they were to govern according to the instructions, and to put in practice what they could of their Fundamental Constitutions.

2. They were required to cause all the persons so chosen to swear allegiance to the King, and to subscribe fidelity and submission to the Proprietors and to the form of government by them established.

3. The Governor and Council were to choose some fitting place wherein to build a fort; under the protection of which was to be the first town. The streets of the town were to be so arranged as to be commanded by the guns on the fort.

4. The stores of all kinds were to be kept within the fort.

5. If the first town was placed upon an island, the

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 347.



whole island was to be divided into colonies and reserved for the people, and no seigniory or barony was to be taken up in it. But if the first town was planted on the main, then the next six adjoining squares of 12,000 acres were to be all colonies, so that the people might first be planted together in convenient numbers.

6. In order to avoid offending the Indians, no one was to be allowed to take up land within two miles and a half of any Indian town.

7. The Governor and Council were to establish such courts as they should think fit for the administration of justice till the grand model of government could be put into operation.

8. They were to summon the freeholders of the colony and to require them to elect twenty persons, who, together with the deputies, were for the present to be the Parliament, and by and with whose consent the Governor was to make such laws as he should from time to time find necessary, which laws, being ratified by the Governor and any three of his five deputies, were to be in force, as provided in the Fundamental Constitutions, that is, until passed upon by the Palatine's court in England.

9. All persons above the age of sixteen years who should come to Port Royal to plant or settle there, before the 25th of March, 1670, were to be granted 150 acres of land for themselves, and 150 acres more for every able man-servant they brought with them or caused to be transported into the colony, and 100 acres more for every woman-servant, and man-servant under sixteen years of age. And 100 acres were to be given to every servant who served out his time.

10. To every free person that should arrive to plant and inhabit before the twenty-fifth day of March, 1671, 100 acres, and 100 more for each servant he brought with him



or caused to be transported into the colony, 70 acres for every woman-servant, or man-servant under sixteen years of age. And to every servant that should arrive before the time last mentioned, 70 acres.

11. To every free person that should arrive before the 25th of March, 1672, with intent to plant, 70 acres, and 70 acres more for each man brought with him, and 60 acres for each woman-servant or man-servant under sixteen years of age. To every servant who should arrive before this time, 70 acres upon the expiration of his term of servitude.

12. The land was to be laid out in squares of 12,000 acres, each of which squares taken up by a Proprietor was to be a seigniory, each taken up by a Landgrave or Cacique to be a barony, each set aside for the people to be a colony. The proportion of 24 colonies to 8 seigniories and 8 baronies was to be preserved.

13. The people were ordered to settle in towns, and that one town at least should be laid out in each colony. No inhabitant of any of the colonies, that is, no common person, was to be allowed to have a greater proportion of front upon a river than a fifth part of the depth of his land.

14. A person having brought out servants to settle was to appear before the Governor and Council, who were thereupon to issue to him a warrant to the surveyor general to lay him out a parcel of land according to these instructions, which survey, when returned, was to be recorded, and the person to whom the land was granted was then to be sworn to his allegiance to the King, fidelity and submission to the Lords Proprietors and the Fundamental Constitutions and form of government, whereupon the grant was to pass under the seal.

The Proprietors thus attempted to evade the provision

in their charter which secured to the freemen in the province the right to participate in the formation of the government, and to force upon them the Fundamental Constitutions which the Proprietors had adopted. The charter gave to the Proprietors, as we have seen, power and authority to make and enact laws, only “by and with the advice assent and approbation of the Freemen of the Province.” Disregarding this plain restriction upon their power, the Proprietors formulate in advance an elaborate and minute system of government with the avowed purpose of curtailing the power of the people who should settle the province—as they euphemistically expressed it, to “avoid erecting a numerous democracy.” To this plan of government, so devised that in all assemblies or parliaments, as they were grandiloquently termed, the representatives of the people must inevitably be outvoted in all questions by a patrician order established in advance, every freeman before taking part in the government, or being allowed to take out a grant of land, was required to subscribe his submission, and thus commit himself to a waiver of his rights under the Royal charter.

Ramsay, in the introductory chapter to his history, states that neither the number of the first settlers nor their names, with the exception of Sayle and West, have reached posterity. The Shaftesbury papers recently given by the family to the State paper office in London, some of which have been published by the city council of Charleston, have in some degree supplied this information. On the 17th of August, 1669, three vessels, the *Carolina*, the *Port Royal*, and the *Albemarle* lay at anchor in the Downes, with their crews and ninety-three passengers in the *Carolina*,—how many in the other vessels is not stated,—with supplies of all kinds aboard and ready for sea.

Of the ninety-three passengers aboard the *Carolina*, sixteen were masters, one of whom had with him a wife, sixty-three servants, and thirteen persons who brought no servants. The first name is that of Captain Sullivan (Florence O'Sullivan), a name perpetuated in that of Sullivan's Island, Charleston harbor. There is one other name destined to appear much in the history of South Carolina, and which has continued in his family from the very first settlement to the present time. This is the name of Stephen Bull.<sup>1</sup>

<sup>1</sup> *Year Book City of Charleston*, 1883 (Courtenay), 366; Centennial Address, from *Shaftesbury Papers*. *Ibid.*, 1886, 243.

A List of all such Masters, free Passengers and S'v't's which are now aboard the *Carolina* now riding in the Downes, August the 10th 1669

CAPT SULLIVAN

Ralph Marshall	James Montgomery
Rich: Allexander	Stephen Wheelwright
Tho Kinge	Eliz Dommocke
Eliz: Mathews	

STEP BULL

Robert Done	Barnaby Bull
Tho Ingram	Jonathan Barker
John Larmouth	Dudley Widgier

ED HOLLIS and JOS DALTON

George Prideox	Thomas Younge
Henry Price	Will. Chambers
John Dawson	Will Roades
Alfrd Harleston	Jane Lawson
Susanna Kinder	

THO\* and PAULE SMITH

Aice Rixe	Jo Hudlesworth
Jo. Burroughs	Hugh Wigleston
Eliz. Smith	Andrew Boorne
Francis Noone	

HAMBLETON (JNO HAMILTON)

Tho Gourden	Will Lumsden
Jo Frizen	Step Flinte
Edw Young	Jo Thoinson
Samuel Morris	Tho Southell
Agnis Payne	Jo. Reed.

JO RIVERS.

Tho Poole	Rob. Williams
Henry Burgen	Math Smallwood

NICH CARTHWRIGHT

Tho Gubbs	Jo Loyde
Martin Bedson	Step Price
Will Jenkins	

MORRIS MATHEWS

Alva Phillips	Reginold Barefoot
Mathew Hewitt	Eliz Currie

WILL BOWMAN

Abraham Smith	Millicent Howe
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DOCTOR WILL SCRIVENER

Margaret Tudor.

WILL OWENS

John Humphreys	Christopher Swade
John Borley	

THO MIDDLETON ELIZ. *uxor ejus*

Rich Wright	Tho Wormes
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SAMUEL WEST

Andrew Searle	Will West
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JOSEPH BAILEY

John Carmichaell

PASSENGERS THAT HAVE NOE SERVANTS

Mr Tho Rideall	Mr Will Houghton
Mr Will Hennis	Mr Tho Humfreys
Eliz Humphreys	Marie Clerke
Sampson Darkenwell	Nathanyell Darkenwell
Mrs Sarah Erpe	Eliz Erpe
Martha Powell	Mrs Mary Erpe
Thomas Motteshed	

\* This Tho Smith has been supposed by some to have been the Thomas Smith the Landgrave; but this is a mistake. Landgrave Smith did not come to Carolina until 1687.



The fleet stopped at Kinsale, but took in only seven servants there, and sailed according to instructions to Barbadoes, which was reached in October; it was consigned to Thomas Colleton, one of the distinguished family of that name in Barbadoes — a son of Sir John, one of the original Proprietors, and brother of Sir Peter, the present Proprietor, who had once been temporarily Governor of that island, and of James, who afterwards was to become Governor of this province.

Besides the causes of discontent of the planters of Barbadoes to which we have alluded, a succession of dreadful hurricanes had occurred, which, added to the fact that the island was over populated, and that the planters were leaving for the Bahamas and other islands, induced the Proprietors to hope that their colony would find many there who would join it for the new province. It was thought that over one hundred emigrants might be secured there. In securing these the influence of Sir John Yeamans and Thomas Colleton was much relied upon; but many disasters occurred at Barbadoes. While lying there on the 2d of November a gale struck the fleet and the *Albemarle* was driven on the rocks of the coast and shipwrecked. One of the cables of the *Carolina* was also broken and the *Port Royal* lost an anchor and a cable. To save the ship's stores, many were put ashore until repairs could be completed and another sloop hired to continue the voyage. Another vessel was also procured in the place of the *Albemarle*.

Sir John Yeamans encouraged the expedition, and determined to go with it himself to Port Royal. The fleet sailed, but was soon forced to put in at Nevis, a British West India island. There they found Dr. Henry Woodward, whom Sandford had left with the Indians at Port Royal in 1665. He had been well treated by the Indians, but had been surprised and captured by Spaniards at St. Helena, and

taken prisoner to St. Augustine ; he had been rescued and carried to the Leeward Islands, from which he shipped as surgeon of a privateer and was cast away on the island in the hurricane of the 17th of August which had wrecked the *Albemarle*. Notwithstanding these adventures, he promptly volunteered to join the expedition, and to give it the benefit of his experience. His services were at once accepted.<sup>1</sup>

Sir John Yeamans here put on board the *Port Royal* one Christopher Barrowe, with instructions to pilot the ship to Port Royal. From Nevis the fleet had good weather until near land, when the *Port Royal* parted from the other vessels. The *Carolina* and the Barbadian sloop reached Bermuda. By the advice of Barrowe the *Port Royal* sailed southward and, endeavoring to touch at the Bahama Islands, was cast away near Abaco, one of those islands, on the 12th of January, 1669-70. The company reached the shore by means of the small boat, but many lost their lives on that island. Here Russell, the master of the *Port Royal*, built a boat in which they got to Eleuthera, another of the Bahama Islands, where he hired a shallop and sailed to New Providence, whence most of the survivors obtained transportation to Bermuda. The rest they left at Providence, except Barrowe and his wife, who went to New York.<sup>2</sup>

At Bermuda Sir John withdrew entirely from the management of the expedition, assigning as his reason that he was obliged to return to Barbadoes to be in readiness to act as one of the commissioners 'previously appointed for negotiating with French commissioners in regard to their dispossession and expulsion of the English

<sup>1</sup> *Calendar of State Papers, Colonial*, London, 1889, 246.

<sup>2</sup> *Year Book City of Charleston* (Courtenay), 1883, 369 ; *Shaftesbury Papers*.

settlers from their plantations in St. Christopher's Island in 1666. Upon his withdrawal, he persuaded the adventurers to take William Sayle, whom he describes as "a man of no great sufficiency yet the ablest I could meet with," and inserted his name in the blank commission which he had from the Lords Proprietors. A reason he assigned for doing this was that being a Bermudian he thought Sayle might induce others to embark with them in the enterprise. Thus accidentally was the first Governor of South Carolina appointed.<sup>1</sup>

The deputations in blank were filled as follows: Joseph West, deputy for the Duke of Albemarle, Dr. William Scrivener for Lord Berkeley, Stephen Bull for Lord Ashley, William Bowman for Lord Craven. Florence O'Sullivan must have represented either Sir George Carteret or Sir Peter Colleton.<sup>2</sup>

The appointment of Sayle gave rise to much discontent. A writer describes him as "of Bermuda, a Puritan and nonconformist, whose religious bigotry, advanced age and failing health promised badly for the discharge of the task before him." Two others of the party, William Scrivener and William Owen, were for bringing suit against Sir John, but the matter was "salved over" and the expedition sailed from Bermuda February 26, 1669-70, a sloop having been procured in the place of the *Port Royal*.

After leaving Bermuda, the expedition encountered bad weather again. The *Carolina* and the Bermuda sloop succeeded in keeping near each other, but the Barbadian sloop was separated and did not rejoin the others until

<sup>1</sup> *Year Book City of Charleston* (Courtenay), 1883, 369, 370; *Hist. Sketches of So. Ca.* (Rivers), 88.

<sup>2</sup> This list has been collated by and kindly given me by Langdon Cheves, Esq.



about the 23d of May, more than a month after their arrival at Ashley River.

Mr. Hugh Carteret, who was in the *Carolina*, gives an account of his trip from Bermuda. He writes :—

“Sayling thence on Feb’y 26th we came up with land between Cape Romano and Port Royall at a place called Sowie or Sewee and next day brought the ship in, through a very handsome channel and lay there at anchor a week.”<sup>1</sup>

The first landing of this expedition was thus made about March 17, 1670, in Sewee Bay at the back of Bull’s Island. The name and the fact that “the ship came in through a very handsome channel” establishes this with great certainty. The Indians there informed Sayle that a tribe known as the Westoes had ruined St. Helena and the country northward as far as Kiawha (Ashley River) about a day’s journey distant. The Cacique of Kiawha, presumably the same who had endeavored to persuade Sandford to visit his country three years before, now again came to the ships and renewed the praises of their land. Taking him aboard after a conference, Sayle and his party left their anchorage and, sailing to the southward, entered Port Royal. It was two days before they could communicate with the Indians, who confirmed what had been told them at Sewee.

During their short stay at Port Royal, Governor Sayle summoned the “freemen,” according to the instructions accompanying his commission, to elect five men “to be of the council,” and they elected Paul Smith, Robert Donne, Ralph Marshall, Samuel West, and Joseph Dalton as their representatives. This was the first election in South Carolina. We have no record whether it was by ballot or by poll. William Owen, “always itching to be in

<sup>1</sup> *Year Book City of Charleston* (Courtenay), 1883, 370 ; from *Shaftesbury Papers*.

authority," censured the legality of the election, whereupon the freemen met a second time and confirmed their former choice.

The expedition then left Port Royal and ran in between St. Helena Island and Combahee. Many went ashore at St. Helena and found the land good and many peach trees. From this point the Bermuda sloop was dispatched to Kiawha to view that land so much commended by the Cacique, and word was brought back that the land was better to plant. After some discussion, the Governor favoring Kiawha, it was determined to settle permanently there. Anchors were weighed, the vessels stood to the north, and entering what is now Charleston harbor, then called by the Spaniards St. George's Bay, the colony landed in April on the first high point on the western bank of the Kiawha, which Sandford in passing had called the Ashley.<sup>1</sup> The point on which they settled they named "Albemarle Point."

Mr. Morris (or Maurice) Mathews, who was in the Barbadian sloop procured to supply the place of the *Albemarle* which was lost at Barbadoes, has left an account which enables us to follow that sloop in her perils after leaving Bermuda.

On the 15th of May, by stress of weather, she was driven to the Island of St. Catharine about latitude

<sup>1</sup> Indians did not name rivers. Settlers in America often named them from the neighboring Indian tribes, but did not find them so called. Sandford says: "I demanded the name of this River. They told mee *Edistowe* still and pointed all to be *Edistowe* quite home to the side of *Jordan* by which I was instructed that the *Indians* assigne not their names to the Rivers but to the Countreyes and people." — *Year Book City of Charleston* (Courtenay), 1685, 275. The first colonists called this river Keawaw, or Ashley. On Culpepper's first map of the settlement, March 7, 1672, Cooper River is put down as the Wando, and the present Wando as the Etiwan.

31 degrees. There they proceeded to "wood and water" the vessel. They traded with the Indians and entertained them aboard the vessel. On the next day "a semi-Spaniard Indian" came aboard with a present of bread set for the master and promised pork in exchange for "truck." On the 17th the master and mate and Mr. Rivers, who also was in this company, three seamen and one man-servant went ashore with truck to buy pork — for the sloop's use. Two other men-servants went ashore to cut wood and two females to wash linen. The Spaniards and Indians treacherously made prisoners of a part or all ashore and commanded the sloop "to yield to the sovereignty of St. Domingo." This demand was declined, whereupon the Spaniards, finding that their demands were not obeyed, opened fire with their muskets and bows, but only succeeded in damaging the vessel's sails. The next day a favorable wind springing up, the men aboard the sloop gave the Indians a parting salute with their muskets, which sent them behind the trees, and hauled the ship out of gun-shot. Leaving the island, several days were spent in sailing about the Carolina coast until they arrived opposite "Odistash" (Edisto). Here the Indians welcomed them, told them of the English at Kiawha, and offered to show them the way over. The next morning they arrived at the entrance to Kiawha, where they met the Bermudian sloop going to fish, which piloted them into Kiawha River. The prisoners taken by the Spaniards were subsequently sent to St. Augustine.<sup>1</sup>

The colonists were thus once more united. Two out of the three ships that sailed from the Thames and some lives had been lost. Just how many of the original company arrived at Kiawha cannot now be ascertained. The

<sup>1</sup> *Year Book City of Charleston* (Courtenay), 1883, 372; *Colonial Records of No. Ca.*, vol. I, 207.



company had been increased at Barbadoes, and some also had probably joined at Bermuda. One ship only of the original expedition reached Carolina. Five had been engaged in the expedition from the time the colonists left the Downes to the landing at Kiawha.<sup>1</sup>

It is a curious and interesting circumstance that just about this time Sir William Berkeley, the Governor of Virginia, had commissioned John Lederer, a learned German, to make explorations to the mountainous part of that province, and that in his wanderings with a single Indian guide he is believed to have reached the Santee, and if so, had he crossed that river and pushed on a little farther, he might have found Governor Sayle and the colony only just arrived. Dr. Hawks, the historian of North Carolina, however, upon a careful study of Lederer's journal as translated by Sir William Talbot, Governor of Maryland, from the original, which was written in Latin, and a map which accompanied it, concludes, we think judiciously, that the wanderings of the learned German were within the present boundaries of the State of North Carolina.<sup>2</sup>

<sup>1</sup> This account of the voyage of the colonists has been collated principally from the Centennial Address of Major W. A. Courtenay, *Year Book City of Charleston*, 1883, and by him compiled from MS. *Shaftesbury Papers* of the So. Ca. Hist. Society, now about to be published.

<sup>2</sup> *Hist. of No. Ca.* (Hawks), vol. II, 43.

## CHAPTER VI

1670-71

THE colonists, upon landing at Albemarle Point on the Ashley, entrenched themselves and began to lay out streets and town lots, and to build fortifications and houses. They were gladly received by the Indians in the neighborhood, whose Cacique had so urgently pressed them to settle there, not altogether unselfishly, however, but because of the protection the Kiawhas hoped the colony would afford them against the Westoes, who then inhabited the region about Port Royal, and of whom they stood in mortal dread, representing them as cannibals. The Kiawhas brought the settlers venison and skins for trade, and oysters were found in great plenty, though not so pleasant to the taste "as your Wallfleet oyster." The turkeys were bigger than those at home. As the Kiawhas, however, could not take care of themselves, still less could they secure the new-comers from the other Indians, and the colonists were obliged to stand continually on their guard. While one party was employed in raising their little habitations, another was always kept under arms to watch the Indians.<sup>1</sup>

Nor were the Indians their only or their worst foes. The peace concluded between England and Spain in 1667, and the recognition by Spain of the rights of England

<sup>1</sup> *Calendar State Papers, Colonial*, London, 1889, 255-257; Hewatt, *Hist. of So. Ca.*, vol. I, 49.

to her possessions in America, was one of the inducements to the Proprietors to begin the settlement of their province. But Spain, while acknowledging the right of England to such possessions, had not agreed to any definition of her territory. She had never admitted the right of England to that covered by the charters of the Proprietors. She still claimed a greater part of it as belonging to Florida. Charleston harbor was still hers, as St. George's Bay. The Spaniards at St. Augustine were thus for near a century a thorn in the side of the colony of Carolina. There was a castle there usually garrisoned by about 300 or 400 regular troops. Besides these, the inhabitants of the towns, many of whom were mulattoes of savage dispositions, were all in the King's pay and formed into a militia, computed to be about the same number as the regular troops. This idle population, relying on the King's pay only, giving no attention to agriculture or trade, or any other peaceful pursuit, were ready at all times for mischievous adventures, and furnished a body whose deeds of hostility might be conveniently avowed or disowned as circumstances required. These people, regardless of the declaration of peace, had no idea of standing by and idly looking on the establishment of an English colony at St. George's Bay. They sent an expedition at once to break it up. The vessel they sent entered the Stono, but finding the colonists on their guard and stronger than they had expected did not attack, but returned to St. Augustine. They had, however, shown the settlers on the Ashley River that they were but an outpost to the other English colonies in America, liable at any moment to be attacked, and beyond the reach of timely assistance. Governor Sayle, notwithstanding his great age, shared in all the hardships with his fellow-adventurers and by his example animated and encouraged



them to perseverance. In May the *Carolina* was sent to Virginia for provisions, and on the twenty-seventh day of June the Barbadian shallop was dispatched to Bermuda for settlers and for supplies. The *Carolina* returned on the 22d of August to Kiawha and in September was sent to Barbadoes, whence she did not return until early in the next year.<sup>1</sup>

Governor Sayle is said to have been a Puritan, and the style and tone of the following letter, which he wrote to Lord Ashley from Albemarle Point on the 25th of June, 1670, is certainly in accordance with the temper of that religious class, though it was a clergyman of the Church of England for whose ministrations he was appealing — a clergyman for whom Sir John Yeamans had promised to procure a commission from the King to make him their minister. He writes : —

“Though we are (att pr’sent) under some straight for want of provision (incident to the best of new plantations) yet we doubt not (through the goodness of God) of remits from sundry places to w’ch we have sent. But there is *one thing* which lyes very heavy upon us, the want of a Godly and orthodox minist’r w’ch I and many others of us have ever lived under as the greatest of o’r Mercys. May it please your Lords’p in my late country of Bermudas there are divers Minstr’s of whom there is one Mr Sampson Bond heretofore of long standing in Exeter Colledge in Oxford and ordaigned by the late Bishop of Exeter the ole Do’r Joseph Hall. And by a commission from the Earl of Manchester and company for the Sumer Islands sent theere in the yeere 1662 for the term of three yeeres under whose powerfull and soul-edefying Ministry I have lived eight yeeres last past. There was nothing in all this world soe grievous to my spirit as the thought of parting with his Godly society and faithfull ministry. But I did a little comfort myself that it might please *y’r*<sup>2</sup> Lord by some good measure or other to encline his heart to come after us, who hath little respect from some who are now in authority in Ber-

<sup>1</sup> Hewatt, *Hist. of So. Ca.*, vol. I, 51.

<sup>2</sup> Probably should be *ye*.

mudas w'ch is a great discouragm't to him, w'ch is taken notice of in other places, and he is invited to Boston in New England and to New York by the Govern'r there tenders of large encouragement if he will come to ye one or other place. I have likewise writt most earnestly to him desiring that he would come and sitt downe with us, assuring him that it is not only my urgent request, but withall the most hearty request of ye colony in generall, who were exceedingly affected with him and his ministry all the tyme they were in Bermudas." <sup>1</sup>

Again in a letter of 9th September, in which Florence O'Sullivan, Stephen Bull, Joseph West, William Scrivener, Ralph Marshall, Paul Smith, Samuel West, and Joseph Dalton join, he urges the great want of an able minister by whose means corrupted youth might be reclaimed and the people instructed. The Israelites' prosperity decayed when their prophets were wanting, for where the ark of God is, he says, there is peace and tranquillity.

The Lords Proprietors authorized an offer to be made to Mr. Bond of 500 acres of land and £40 per annum to come to Carolina, but they declared that though allowed to be a preacher among the colonists, they gave neither him nor Sayle authority to compel any one in matters of religion, having in their Fundamental Constitutions granted a freedom which they resolved to keep inviolable. Mr. Bond did not come, but remained at Bermuda many years afterwards. <sup>2</sup>

While Sayle and other leaders of the colony were doubtless men of strong religious character, the company generally was composed of adventurers of the ordinary type; men no doubt of irreligious and reckless lives. So we read that on the 4th of July, the Governor and Council, having been informed how much the Sab-

<sup>1</sup> *Shaftesbury Papers; Calendar State Papers, Colonial* (Sainsbury), 1889, 202, 489; *Year Book City of Charleston* (Courtenay), 1883, 374.

<sup>2</sup> Anderson's *Hist. of the Colonial Church*, vol. II, 336.

bath day was profanely violated, and of divers grand abuses practised by the people to the great dishonor of God Almighty and the destruction of good neighborhood, took seriously into consideration by what means these evils might be redressed. And here at once the absurdity of the grand model of government with which they had come encumbered, and the inadequacy and unsuitableness of their powers even under the instructions to the Governor and Council, became apparent. By the latter, the Governor, with the five deputies of the Proprietors and the five "freemen" elected at Port Royal, were to govern according to the limitations and instructions of the Fundamental Constitutions as far as was practicable; but they were required also to summon the "freeholders" to choose twenty persons who, with the deputies, were to form a Parliament. Now it was found that the number of freeholders in the colony were "nott neere sufficient to elect a Parliam't." The Governor, thereupon, with the consent of his Council made such orders as were thought convenient to suppress the abuses.<sup>1</sup> Such temporary orders were expressly provided for under the provisions of the charter, but had not been either under the constitutions or the instructions brought out by Governor Sayle. Nor was there found wanting in the colony one astute enough to perceive the dilemma, though there was no lawyer among these people, who by the constitutions were to attend each to his own law business. The Governor summoned all the people to hear the orders he had determined upon. Mr. William Owen, the same who had "censured the legality" of the election held at Port Royal, and who is now described as one "willing to doe any thing though ever so ill in itselfe, rather than

<sup>1</sup> *Shaftesbury Papers; Calendar State Papers, Colonial* (Sainsbury), London, 1889, 181; *Year Book City of Charleston* (Courtenay), 1883.



not to appeare to be a man of accion," persuaded the people that without a Parliament no such orders could pass. In this he was supported by Dr. William Scrivener, deputy of Lord Berkeley. While the Governor and Council were discussing this new point and other matters, Owen, constituting himself manager and returning officer, held election on the 4th of July and took down the names of those elected. The Governor and Council, in their account of the matter, say that two of the Parliament men returned were servants — "Mich Moran a laboring Irishman and Rich Crossley set free by his master for idleness"; but among the Shaftesbury papers is one entitled "Mr. Owen's Parliament's Return," which gives the names of those elected; viz. Maurice Mathews, Henry Hughes, John Jones, Thomas Smith, Henry Symons, Henry Woodward, Hugh Carteret, James Marschall, Anthony Churne, William Kennis, George Beadon, Jonathan Baker, Thomas Ingram, Thomas Norris, and Will Owen. The names of the two servants, Moran and Crossley, do not appear. Though "Mr. Owen's Parliament's Return" recites that the election was held by the Governor's orders and summons, the Governor and Council took no notice of it, and the Governor's orders were published and received without further question.

Owen and Scrivener were not, however, so easily subdued. The Governor and Council complain to the Lords Proprietors that Owen, finding himself "swallowed up in a general consent," fell upon a new stratagem, and persuaded the people, especially the new-comers, that as there was no great seal in the province, unless a Parliament were forthwith chosen to prevent it, their lands and all their improvements might be taken away at pleasure. "Now," says the Governor, "Owen hath hit the mark, he is what he would be, the leader of a company of people

upon any terms, the people's prolocutor, and therefore must have room in the council to show himself and the people's grievances." The Governor and Council patiently heard, they declare, Owen's argument upon the interpretation of their Lordship's instructions, after which the Governor made a speech to the people, giving them to understand his power and authority to assure them their lands until their great seal arrived, and that he intended to summon a Parliament when opportunity served or necessity required; whereupon, he says, all or most of the freemen were fully satisfied. Scrivener, however, he goes on to say, perceiving that Owen and himself were likely to lose reputation as men of understanding, rose up, and with more than ordinary heat desired the people to take notice that he conceived their proposals—that is, that it was necessary to have a Parliament called to secure their lands from forfeiture—very just and reasonable, and that those who would not support them were disturbers of the peace and infringers of the people's liberties. This was more than the Governor and Council could stand, and they report that for such speeches, tending to the slighting and utter destruction of the present government, and inciting the people to sedition and mutiny and consequently to the ruin of the settlement, it was that same day ordered that from thenceforth Scrivener be suspended from the Council, and that both he and Owen be incapable of bearing any public office or employment in the colony until further orders.<sup>1</sup> Scrivener was, however, soon back in the Council. In November Braine writes to Lord Ashley that there are but five men in the Council that have any reason,— Captain West,

<sup>1</sup> *Shaftesbury Papers; Calendar State Papers, Colonial*, London, 1889, 213, 329, 471, 473; *Year Book City of Charleston* (Courtenay), 1883, 375.

Messrs. Bull, Scrivener, Dun, and Dalton.<sup>1</sup> And Owen, too, whose election to Parliament by the people in July, 1670 the Governor would not allow, some time after took his seat in the Council itself, as the deputy of Sir Peter Colleton.<sup>2</sup> In the meanwhile he is in correspondence with Lord Ashley, who thanks him for his letters, which indeed are among the ablest written from the colony.<sup>3</sup> Writing to Robert Blaney, secretary to Lord Ashley, he speaks not unkindly of the Governor. He cannot believe but that the Governor is honest, but whether of parts sufficiently qualified in judging civil rights he cannot tell. A man for this place must be of parts, learning, and policy, and of a moderate zeal; not strict Episcopal, nor yet licentious nor rigid "Presbyterian nor yet hypocritical, but saving himself in an even balance between all opinions, but especially turning his fore to the church of England."<sup>4</sup>

The *Carolina*, under command of Captain Henry Braine, which had been sent to Virginia in May, 1670, returned, as we have seen, to Kiawha on the 22d of August with supplies. Florence O'Sullivan had written to Lord Ashley by her, by the way of Virginia, and he wrote again on the 10th of September, that the country proves good beyond expectation, abounding in all things, as good oak, ash, deer, turkeys, partridges, rabbits, turtle, and fish, and the land produces anything that is put into it; for they had tried it with corn, cotton, tobacco, and other provisions, which did well, the lateness of the season considered. He had made discoveries in the country, and found it good, with many pleasant rivers.

The *Carolina* had returned from Virginia in good time;

<sup>1</sup> *Calendar State Papers*, 329, 473.

<sup>2</sup> *Ibid*, 721; Dalcho's *Ch. Hist.*, 11.

<sup>3</sup> *Calendar State Papers*, 261, 491.

<sup>4</sup> *Shaftesbury Papers*; *Calendar State Papers*, 473.



for all the provisions were gone, and the colonists forced to live upon the friendly Indians, some of whom were very kind to them. She then sailed again for Barbadoes, seeking emigrants and fresh supplies. O'Sullivan was evidently not a Puritan, as Sayle was, nor did he believe in the doctrine of the Fundamental Constitutions, that the colony could get along without lawyers. He writes : —

“ Wee expect from yo<sup>r</sup> hono<sup>rs</sup> a shipp from England w<sup>th</sup> more people, you wold doe well to grant free passage to passengers for some small tyme for many would be willing to come y<sup>t</sup> are not able to pay their passage, pray send us a minister quallified according to the Church of England, and an able councellor to end controversies amongst us and put us in the right way of the managem<sup>t</sup> of yo<sup>r</sup> coll — we hope now the worst is past if you please to stand by us ” etc.<sup>1</sup>

Dr. Henry Woodward, who had been found at Nevis and was with the expedition when Sir John Yeamans left it at Bermuda, writes to Sir John on the same day that O'Sullivan writes to Lord Ashley (10th of September), excusing himself for not having written since his Honor left Bermuda for Barbadoes, and he with the others set forward for the main, and tells of a country he had discovered, so delicious, pleasant, and fruitful, that, were it cultivated, it doubtless would prove a second paradise. He describes it as lying west by north fourteen days' travel after the Indian manner of marching.<sup>2</sup> He had formed a league with the Emperor of this land of Chufytachygs and of all the petty “ cassiks ” between the Emperor and themselves, and so upon his return, the *Carolina* being still absent on her voyage to Virginia and provisions running low, he had been enabled to procure provisions from the natives. He tells of the threat of invasion by the

<sup>1</sup> *Shaftesbury Papers; Colonial Records of No. Ca.*, vol. I, 207.

<sup>2</sup> Supposed to be the land of Cofachiqui, visited by De Soto in 1540, near or upon the sources of the Savannah River, where the States of North and South Carolina and Georgia border upon each other.

Spaniards, which he conceived was designed in the hope of intercepting the *Carolina* on her return from Virginia, yet it pleased God the ship arrived safely with her most convenient supply.<sup>1</sup>

Governor Sayle's health, from his great age and the fatigue and exposure incident to the settlement of the colony, soon failed. On the 30th of September he executed a will whereby, declaring himself weak in body, but (blessed be God) in perfect mind and memory, he devised "his mansion house and Town Lot in Albemarle Point to his eldest son Nathaniel Sayle." He lived, however, until the March following, when he died, aged about eighty years.<sup>2</sup> He was authorized by his commission, with the advice and approbation of his Council, to nominate a deputy to succeed him in case he should die or depart from the province, who should act as Governor until the pleasure of the Proprietors should be known.<sup>3</sup> On the morning of the 4th of March, finding his strength failing, but in full possession of his senses, he sent for his Council and nominated Joseph West as his successor under this power. The nomination was approved, and upon his death West assumed the government.<sup>4</sup>

The death of the Duke of Albemarle had preceded Governor Sayle's a few months. Lord Ashley writes to West on the 1st of November, that the present Palatine is Lord John Berkeley, Lord Lieutenant of Ireland, who has succeeded the Duke of Albemarle, deceased.<sup>5</sup> But his Lordship was not regularly admitted as such until the 20th of January, 1669-70.<sup>6</sup>

<sup>1</sup> *Shaftesbury Papers; Colonial Records of No. Ca.*, vol. I, 208.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 96; Appendix, 385.

<sup>3</sup> *Ibid.*, 340, 341.

<sup>4</sup> *Shaftesbury Papers; Calendar State Papers* (Sainsbury), London, 1889, 472; *Year Book City of Charleston* (Courtenay), 1883, 375.

<sup>5</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 313.

<sup>6</sup> *Colonial Records of No. Ca.*, vol. I, 180,

The Council organized by Sayle continued to govern the colony until the Proprietor's ship, the *Blessing*, brought further instruction in August, 1670. Captain Halsted, the master, was, by these instructions, upon reaching the *Ashley*, first to deliver eight small guns with their carriages to the Governor and Council, and then with all convenient speed to procure a loading of timber staves and other commodities suitable for the market at Barbadoes, to which he was to sail as soon as he secured his freight. During the lading of his vessel he was to take a strict and particular account of the stores which had been brought out by West as storekeeper, also of the cargo from Virginia and the provisions received from Bermuda. West and Braine, while at Bermuda, had drawn on Mr. Colleton for 12,000 pounds of sugar, and had since drawn on him for a similar amount. Captain Halsted was to inquire in what this sugar was laid out, also for the beef and flour Mr. Colleton had sent. He was to take a receipt of Mr. West for the cargo he was to deliver. If he had time during the lading of the ship, he was to take a view of the country, especially of Ashley River, to seek a healthy highland convenient to set out a town, as high up as a ship could well be carried, and to do the same in Wando and also "Sewa River." He was to inquire concerning the healthfulness, richness, and other properties of the soil, especially whether the country produced timber for masts. As soon as his vessel was laded, he was to sail for Bridge Town, Barbadoes, there to dispose of the timber upon the best terms, consulting Sir John Yeamans and Mr. Thomas Colleton as to the best course for securing passengers for Ashley River, which was to be the main purpose of his voyage thither. At Barbadoes he was also to inquire about those bills charged upon them by Mr. Colleton. As soon as he had secured



passengers, he was to sail again for the Ashley River and, delivering them there, to sail to Virginia, and then to lay out the produce of the rum and sugar he was to take in at Barbadoes, in cattle which he was to take back to the Ashley. His instructions then provided for another voyage to Barbadoes with lumber, the proceeds of which he was to invest in a cargo fit for the Bahamas, where he was also to seek passengers back to the Ashley. In all his trips to any place in the West Indies he was enjoined to remember that the chief employment of his ship should be to carry people to their plantation on the Ashley, and that traffic was to be subservient to this purpose.<sup>1</sup>

Captain Halsted also brought out with him a set of laws, styled "Temporary Laws," which the Proprietors had adopted to be administered until there was a sufficient number of inhabitants to warrant the enforcement of the Fundamental Constitutions in all particulars; but these Temporary Laws did but little to relieve the situation. The officers and machinery of the government retained were out of all proportion to the numbers of the colony. The government as prescribed was still absurdly top-heavy. For a colony at first of not more than 200, and which in two years did not double its numbers, it was still proposed to maintain a Grand Council, Parliament, and numerous officers of the highest grade known to European governments. The Palatine was to name the Governor, and each Lord Proprietor a deputy, which deputies, and an equal number of others chosen by the Parliament, should continue to be counsellors until the Proprietors should order a new choice or the country be so peopled as to be capable of the grand model of government. When Landgraves or Caciques should be created by the Proprietors, so many of the eldest of them as should be resident in the province

<sup>1</sup> *Hist. Sketches of So. Ca. (Rivers)*, Appendix, 359-362.

as would equal the number of the Lords Proprietors' deputies should be added to the Council, so that the nobility should have a share in the government. The Governor with the Lords Proprietors' deputies, the Landgraves, and Caciques (of the Council), and those chosen by the Parliament were to be a Grand Council and have all the power and authority of such under the constitutions and of other courts until they should be evicted. Besides these there were to be a Chief Justice, who should appoint a Chief Marshal, a Chancellor, Treasurer, High Steward, High Chamberlain, Admiral, Secretary, Receiver, Surveyor, Register, and Marshal of the admiralty.

To suit the beginning of the government and to prevent the taking up great tracts of land sooner than they could be settled, it was provided that until by the increase of the inhabitants parts of seventy-two colonies should be possessed by the people, each Proprietor should have but three seigniories and each Landgrave and Cacique but one barony. Lords of baronies and manors were to be required to have each upon his barony thirty persons and upon his manor fifteen within seven years after the date of his grant.

To these provisions were added two others. First, that no Indian upon any occasion or pretence whatsoever was to be made a slave or without his own consent be carried out of the country. Second, a provision for keeping full the number of the deputies of the Proprietors in the Council by directing how vacancies should be supplied.<sup>1</sup> Notice was brought at the same time that Mr. James Carteret, Sir John Yeamans, and Mr. John Locke had been made Landgraves.<sup>2</sup> The Royal charter, as we have pointed out, empowered the Proprietors to confer titles

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 351, 353.

<sup>2</sup> *Ibid.*, 103; Appendix, 368.

only "upon such of the inhabitants of the province" as they should think fit ; but here we see them in the very outset making persons who had never even been in the colony of Carolina Landgraves. Captain Halsted was also instructed to tell the settlers, with reference to the supply of provisions which he carried to them, that the Proprietors had "been so much out of purse" for their good that it was expected of them in return to be "fair and punctual" in repaying what they had got ; "upon which fair dealing of them will depend the continuation of our supplies."

We cannot refrain from remarking, observes Rivers, that the "true and absolute lords" of the immense region of Carolina, with all its mines, quarries, and fisheries, whose object was declared to be the diffusion of the Christian religion among those who knew not God, must now have appeared to the colonists to abandon their dignity and best policy for sordid calculations. Instead of the Gospel, the Indians were offered only glass beads ; and the needy colonists, who were yet struggling to maintain themselves, were required to repay what had been granted them (with ten per cent interest) by preparing cargoes of timber "at moderate rates." Their Lordships were already "so much out of purse" for their benefit that unless punctual payment should be made, the settlers should expect from them no ammunition or fish-hooks, blankets or provisions. At the same time a nobility was thrust upon them, the first set of the "unalterable" Fundamental Constitutions were repudiated and another set with essential alterations substituted, and numerous laws established without the concurrence of the people as the charter provided, and to which they were required to yield an un murmuring obedience.

All these circumstances, however, were not yet known in the infant colony, and comparative harmony prevailed through the prudent management of Governor West, who



looked rather to the necessities by which he was surrounded than to the plans and theories that emanated from the other side of the Atlantic.<sup>1</sup>

The colony increased but slowly. The *Carolina Packet*, having returned from Virginia, sailed again for Barbadoes in September, 1670. Upon her arrival there, Major Kingsland, Thomas Colleton, and Sir John Yeamans issued a proclamation stating that the Proprietors had provided the vessel for the transportation of such people, with their servants, negroes, and utensils, as would be ready to depart in thirty days. They promised that each person who had underwritten 1000 pounds of muscovado sugar towards defraying the expenses of Captain Hilton's voyage of discovery in 1664 would have lands allotted to him. Those who were minded to go, but unable to pay their own passage, would be transported upon their agreeing, within two years after their arrival, to pay 500 pounds of merchantable tobacco, cotton, or ginger, or of whatever they should first produce. Mr. John Strode and Mr. Thomas Colleton also fitted out a vessel of their own, the *John and Thomas*, and made great exertions to procure emigrants. The *Carolina* sailed from Barbadoes early in 1671, with sixty-four new settlers, and the *John and Thomas* took to the Ashley forty-two more. Among the latter was Captain Godfrey, who had been a deputy in the Council in Barbadoes and who went out upon the persuasion of Sir John Yeamans. He took with him five men, — hands, as they were called, — also Mr. Gray, overseer to Sir John, who carried ten able men, most of them carpenters and sawyers.<sup>2</sup> There were also of the party Captain Thomson and Mr. Culpepper. These, Stephen Bull writes to Lord Ashley,

<sup>1</sup> *Hist. Sketches* (Rivers), 104, 105.

<sup>2</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 313, 338, 344, 432.

were all settled within five days, as close together as convenient. The greatest distance that any person or family is seated, he says, is less than two miles either up or down the river from the town. In August, 1671, the *Blessing* brought out several families from England and, sailing at once for New York, returned in December with a company of emigrants from the Dutch settlement of Nova Belgia, which had recently passed under English rule. The ship *Phœnix* also brought a number of families from the same place. The principal of these new-comers was Mr. Michael Smith with whom a committee of council were directed to lay off a town to be named James Town, the houses in which should be twenty feet long and fifteen feet broad at least. It was ordained that in future a list of all immigrants should be recorded in the Secretary's office and that captains of vessels should give bond not to carry off any of the inhabitants without a special license. Before the furnishing of such list and bond, no vessel could land any part of its cargo.<sup>1</sup>

On the 20th of January following, 1671-72, Joseph Dalton, Secretary of the colony, writes to Lord Ashley: "By our records it appears that 337 men and women 62 children or persons under 16 years of age is the full number of persons who have arrived in the country *in*, and *since* the first fleet out of England to this day, whereof 43 men 2 women 3 children are dead, and 16 absent so as there now remains 263 men able to bear arms 69 women, 59 children or persons under 16 years of age."<sup>2</sup>

With the Temporary Laws, a model of a town was also sent, referring to which Oldmixon, writing in 1708, caustically observes: "It will be well if the people of Carolina

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 100.

<sup>2</sup> *Calendar State Papers, Colonial*, London, 1889, 736; *Year Book City of Charleston* (Courtenay), 1883, 379; *Hist. Sketches* (Rivers), 100.

are able to build 100 years hence; but the Proprietaries as appears by their constitutions and instructions to the Governors thought 'twas almost as easy to build towns as to draw schemes."<sup>1</sup> Paying no attention to the model, and not even regarding the instructions of the Proprietors to the Governor and Council that in the first town the houses should be built so that the guns of the fort might command all the streets, it appears that the land was promiscuously taken up and occupied as a town without any regard to its form or convenience. As early as the 1st of November, 1670, Lord Ashley wrote to West that he was to take notice that Ashley River had been so named by Sandford, and was still so to be called, and that the town as now planted out is to be called "Charles Town." But it was not until the 1st of September, 1671, that the name appears to have been adopted.<sup>2</sup>

In order to provide for the accommodation of the newly arrived emigrants, the Governor and Council, on the 5th of September, 1671, directed the Surveyor General to lay out a town on Stono Creek, adjoining land of Mr. Thomas Gray, near Charles Town, containing twenty-five acres, of which five acres were to be reserved for a churchyard. For the Dutch from New York, on the 20th of December, a town was ordered to be laid out on a creek to the south of Stono, to contain thirty acres. The place was soon abandoned, the settlers spreading themselves over the neighboring country. Lands were soon taken up on the east side of the Ashley, and settlements were formed in

<sup>1</sup> Oldmixon, *Carolina* (Carroll's *Coll.*), 405.

<sup>2</sup> *Calendar State Papers, Colonial*, London, 1889, 124, 195, 255, During the Proprietary Government the name of the town was written thus, *Charles Town*. During the Royal Government it was written *Charlestown*; and since the incorporation of the city, after the Revolution (1783), it has been written *Charleston*.



various parts of the neighborhood. On the 24th of October commissioners were appointed by the Grand Council to examine the banks of the Ashley and the Wando, or Cooper, River, "and to make a return of what places might be most convenient to situate towns upon, that the same might be wholly reserved for these and other like uses." And again, January 13, 1671-72, Captain John Godfrey, Captain Thomas Gray, and Mr. Maurice Mathews were appointed to so view Wando River and there to mark such place or places as they should think most convenient for the situation of a town or towns, and to report thereof with all convenient speed; and it was ordered that no person should run out or mark any lands on the Wando or any of its creeks until such report should be made. The colonists were thus exploring and examining the country around before they finally settled upon the permanent location of the town.<sup>1</sup>

While they were thus engaged, the Indians began to be troublesome. The tribe of Kussoes, inhabiting northeast of the Combahee River, were the first among the neighboring tribes to assume an attitude of open hostility. They and their confederates in the small tribes began in the summer of 1671 to withdraw themselves from their usual familiar intercourse with the colonists, and to discourage other Indians who were friendly and in the habit of visiting the town for the purpose of traffic. The Kussoes declared themselves to be in favor of the Spaniards, with whose aid they intended to destroy the English settlements. Day by day their behavior became more insolent, and on every slight occasion they threatened the lives of the whites, whose property and provisions they looked upon as objects of plunder. Every unguarded farm suffered from their nightly depredations. More

<sup>1</sup> Dalcho's *Ch. Hist.*, 12, 13.

open acts of hostility were only prevented by the constant vigilance of the settlers.

On the 27th of September the Governor and Council declared war against the Kussoes and their confederates. Commissions were granted to Captain Godfrey and Captain Gray. Two Kussoes who were then in town were immediately seized and placed in custody. So accustomed, says Rivers, were the colonists to be on the alert and to bear weapons in hand to protect themselves from surrounding dangers that within seven days companies were formed, the enemy's country invaded and surprised; many of the Indians were taken captive and ordered to be transported from Carolina, unless the remaining Kussoes sued for peace and paid such a ransom for the prisoners as should be thought reasonable by the Grand Council.<sup>1</sup>

In the winter of 1671 a scarcity of provisions rendered it probable that the settlers would suffer great distress. Governor West wisely ordered that all the supplies in the store of the Proprietors should be frugally distributed to the needy; that all occupations, except those of carpenters and smiths, should be suspended for the planting and gathering of a crop of provisions; that in future no one should be entitled to assistance from the public stores who had not two acres well planted with corn or peas for every person in his family; and that slothful and loitering persons should be put in charge of the industrious planters for the purpose of working for their own maintenance and the benefit of the community.

It will serve, says Rivers, to exhibit the condition and progress of the colony during West's first administration to notice the legislative measures taken by him with the Grand Council.

<sup>1</sup> *Hist. Sketches of So. Ca.*, 106.

*October, 1671.* The regulation of the secretary fees; the rates and "scantings" of merchantable pipe staves, requiring the appointment by Council of one or more "viewers" to examine all pipe staves when "any difference should happen upon payment or exchange between party and party in the province of Carolina," and fees allowed for the performance of such duties; the modelling of the proceedings of Council in the determining of differences between party and party.

*December, 1671.* Acts relating to masters trading with servants and servants purloining their masters' goods; prescribing how long servants coming from England were to serve, and how long servants coming from Barbadoes were likewise to serve from their respective arrivals; that none may retail any drink without license; for the speedy payment of the Lords Proprietors' debts; and prescribing "at what rates artificers and laborers shall work therein," *i.e.* the province.

This last is the first act of Parliament we find to be ratified by the Proprietors in England.<sup>1</sup> No courts were yet established, nor were there any lawyers in the colony, but litigation had already begun, and justice was roughly administered by the Grand Council. Each member of this body was required to swear that as a councillor he would assist the Governor to the best of his skill and ability; that he would do equal justice to the rich and to the poor; that he would "not give or be of council for favor or affection in a difference or quarrell" before the Council, but in all things demean himself as equity and justice required, observing the rules and directions of the Lords Proprietors and the laws of England and of the province; and that he would not communicate the secrets or transactions of the Governor and Council without authority.<sup>2</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 106, 107.      <sup>2</sup> *Ibid.*, Appendix, 370.



The first case of litigation in the colony of which we have a record was that upon the petition of John Norton and Originall Jackson against Mr. Maurice Mathews, Mr. Thomas Gray, and Mr. William Owen. On August 28, 1671, it was ordered that the petitioners should appear before the Governor and Council upon Saturday, September 9, peremptorily to prosecute the complaint against the defendants. When that day came, upon hearing the petition, both parties having referred themselves to the determination of the Governor and Council, it was decided that the said John Norton and Originall Jackson should have sixteen pieces of cedar timber desired and one piece of cedar timber more claimed by the defendants. The Governor and Council heard another case this day and decided that Henry Hughes should pay one bushel of corn to Robert Donne for his labor and pains on the plantation of the said Henry Hughes. Having settled these cases, the Council took up the address of two servants of Mr. John Manerich (*Maverick?*), and considering how industrious and useful these servants had been to the colony, for their encouragement ordered that each of them should have ten acres of land near the town. In November Mr. Anthony Churne has a complaint against the now notorious Mr. William Owen, but the difference is referred by the Grand Council to the arbitration of Mr. Edward Mathews and Mr. John Culpepper. Mr. Henry Hughes is also again in court; this time with a serious complaint against Thomas Screman, gentleman, "for that the said Thomas Screman upon the — of October 1671 at Charles Town did feloniously take and carry away from the said Henry Hughes, one Turkey Cock of the price of tenn pence of lawful money contrary to the peace of our sovereign Lord the King," etc. It is to be observed that in this the first indictment in the Pala-

tine province of Carolina the offence is laid as *contra pacem domini regis*, and not against the peace of the Palatine, as might have been under such a government.<sup>1</sup> The Grand Council found gentleman Screman guilty, and without jury adjudged him to be stript naked to the waist and to receive nine lashes by a whip, to be administered by the hand of Joseph Oldys, “who is adjudged by the Grand Council,” the sentence proceeded, “to be stript naked to his waist to perform the same for that the said Joseph Oldys knowing of the felonious act aided said Screman and endeavored to conceal the offence.” But the Council did not stay its hand here. It turned out in the evidence that Robert Donne, who had come out as a servant to Stephen Bull, but who had been one of those elected as a member of the Council at Port Royal, and to whom Henry Hughes had two months before been required to pay a bushel of corn for services rendered and now a Captain Lieutenant, had nevertheless been “comforting aiding and assisting the said Screman to commit the said fact”; whereupon the Grand Council ordered him to appear on the — of December at the head of the company whereof he was Captain Lieutenant, with his sword on, and there to have his sword taken from him by the Marshal, and to be cashiered from his command. Dennis Mahown, servant to Mr. John Cole, for having twice run away from his master, attempting to escape to the Spaniards, was ordered to receive thirty-nine lashes upon his naked back. Captain Thomas Gray makes complaint against Sir John Yeamans, Baronet, “for felling and carrying away severall quantityes from a certaine parcell of land neare the Towne belonging to him the said Capt. Gray. It is also ordered by the Grand Councill aforesaid that an injunction be issued out under the Governor’s

<sup>1</sup> Blackstone’s *Com.*, vol. I, 117.

hand," etc.<sup>1</sup> Thus were equity and law, civil and criminal proceedings, promiscuously administered and perhaps with as much substantial justice as could have been by a regularly organized court.

It had been rumored, even before Sayle's death, that Sir John Yeamans would be appointed Governor by the Lords Proprietors, and the report was received with great disfavor. The day before the Governor's death West writes to Lord Ashley that he lies in a very weak condition, and past all hope of recovery. He hopes that an honest and able Governor may speedily be sent over—one that desires to serve God above all worldly interest. "If Sir John Yeamans comes amongst them again, it is to be feared a hopeful settlement will soon be elapsed."<sup>2</sup> The Council wrote on the 4th, announcing Sayle's death and informing the Proprietors of their choice of Joseph West to be Governor until they learn their Lordships' pleasure, and add that it had been hinted that their Honors had designed to commissionate Sir John Yeamans again as Governor; they had good reason to believe the contrary, "for it doth breed a very great dissatisfaction to the people."<sup>3</sup>

Sir John, having abandoned the colony at Cape Fear, and having again abandoned the colony destined for Port Royal and left it at Bermuda, had now come to Carolina and was at present on the Ashley, felling timber. He had brought with him from Barbadoes his negro slaves, — the first introduced into Carolina, — and had built a house in the town. We shall soon see how his presence affected the condition of the colony; for the present the extracts we have given from the records of the Grand Council enables us to gauge somewhat the material and social condition of the colony at this time.

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 371, 377.

<sup>2</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 428.

<sup>3</sup> *Ibid.*, 433.



## CHAPTER VII

1671-74

IT was the observation of a great political philosopher that so deeply seated is the tendency to conflict between the different interests or portions of a community, that parties would be formed, even though it would be possible to find a community where the people were all of the same pursuits, placed in the same condition of life, and in every respect so situated as to be without inequality of condition or diversity of interest.<sup>1</sup> The truth of this was singularly illustrated in the planting of Carolina. It might have been expected, observes another writer, that these adventurers, who were all embarked on the same design, would be animated by one spirit and zealous to maintain harmony and peace among themselves, for they had all the same hardships to encounter and the same enemies to fear; yet the reverse took place.<sup>2</sup> But while there doubtless existed the strongest motives to unity and harmony among these pioneers in the province, — motives of interest and of apprehension of danger which pressed on all alike, — unfortunately there was added to the natural tendency to the formation of parties in all communities, the irresistible influence of the extraordinary forms of government under which they had embarked.

Not only were the Governor and Council sworn to the

<sup>1</sup> *A Disquisition on Government*, Calhoun's works, vol. I, 17.

<sup>2</sup> Hewatt, vol. I, 75.

observance of the instructions of the Lords Proprietors and to the enforcement of the Fundamental Constitutions, as far as practicable, but these Constitutions, as the unalterable form and rule of government, had been engrossed on parchment and after having been signed and sealed by the Governor, were required to be subscribed by every person before he was admitted to take up lands in the province.<sup>1</sup> These instructions to the Governor and Council, as well as the Fundamental Constitutions so solemnly adopted, upon the test of actual experiment were found to be utterly impracticable in application. Here in the very beginning of the colony was there an artificial as well as natural foundation of two parties. What more certain cause of difference could there be than a written constitution incapable of enforcement? Poor old Governor Sayle, weak in mind as well as body, accustomed only to the command of a ship under instructions from his employers, finds himself confronted by the first "strict constructionists" of Carolina, pointing out to him the inconsistencies and absurdities of his orders. Sayle succumbed to the burden, physical and mental, but the questions brought over from Whitehall remained.

Two parties had already been formed. The Council — the government party — finding their instructions impracticable, and yet with the responsibility of the government upon them, for the present, at least, more concerned for the immediate safety and welfare of the colonists than for the maintenance of the wild schemes of the Proprietors, were inclined to stretch their powers.<sup>2</sup> The Owen and Scrivener party on the other hand, from whatever motives actuated, were endeavoring to hold the Governor and Council to a strict compliance with the terms

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 418.

<sup>2</sup> *Ibid.*, 105.

of the parchment they had been required to subscribe. These divisions had already arisen among the colonists from England. There was another element in the composition of the colony now asserting itself, of which the Governor was very jealous, *i.e.* the Barbadian immigrants, bringing with them as they did colonial experience, habits, and customs, which had grown out of, and were more practically adapted to, the condition of colonial society—rather than the fine-spun theories and grand governmental structures of a philosopher and doctrinaire. The immigrants from England were all strangers to the business of settling plantations in the new country. The Colletons, Sir John Yeamans, Captain Henry Braine, Dr. Henry Woodward, Captains Godfrey and Gray, old colonists, looked down upon the new-comers to America as novices in colonial life and government, and were dissatisfied with their management of the colony. It was by the Governor and the Council's "ill contriving," they said, "that neither Mr. Rivers nor the rest had been brought away from" St. Augustine.<sup>1</sup> Braine had written before Sayle's death that he would pawn his life that Sayle "is one of the unfittest men in the world for the place," and "his being Governor keeps our settlement very chargeable to their Lordships. But though the Governor is crazy yet if there were a wise Council, or three or four men of reason, *planters*, who knew what did belong to settle such a country, it would be to the good of the country and their Lordships' interests."

We do not know exactly when Sir John Yeamans arrived in Carolina. On the 15th of November, 1670, he writes from Barbadoes to the Lords Proprietors, sending "12 cedar planks as the first fruits of that glorious province," *i.e.* Carolina. He was still there in the early part

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 343, 345.



of the year 1671, superintending the transportation of the immigrants he had secured. And Lord Ashley addressed him there in April, thanking him "for the first fruits of their plantation at Ashley from his hands."<sup>1</sup> As late as May the Proprietors instructed Captain Halsted if he traded at Barbadoes to consult Yeamans there.<sup>2</sup> It appears, however, from a letter of Governor West to Lord Ashley that he had arrived in the colony, at the latest, early in July, and had expected to have been at once recognized as Governor by reason of his being a Landgrave. West writes that within two or three days of his arrival Sir John retired to his country house disgusted "that the people did not incline to salute him Governor." He says that as more people had arrived, on the 8th of July, he, West, had summoned all the freemen and requested them to elect twenty persons to be of the Parliament, which was done in three days; that Sir John was chosen Speaker, but that a dispute arose about choosing a clerk, and whether West was made Governor according to the Lords Proprietors' directions. Sir John also made the point, he said, that there must be three deputies besides the Governor, and that it would be in vain for them to proceed unless West would surrender his power as Governor and make the third deputy. It will be remembered that the five original deputies were West, Scrivener, Bull, Bowman, and O'Sullivan. Bowman had not come out, and the Council had suspended Scrivener, so that to comply with the Proprietors' instructions requiring at least three deputies to constitute a quorum, West must be counted as well a deputy as Governor. West would not adopt Sir John's view, but dissolved the Parliament; Sir John and his party went away much dissatis-

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 492.

<sup>2</sup> *Ibid.*, 516.

fied. West writes that Yeamans's conduct was much resented by the people, who began to murmur that "Sir John intended to make this a Cape Fear settlement."<sup>1</sup>

Five days after, West summoned the Parliament again to elect five councillors; when Sir John, says West, preached the doctrine that in all elections those who will stand at the greatest distance from the Governor should be chosen.<sup>2</sup> We have the record of this Parliament, the first held in the province. It was held on the 25th of August, 1671, at Charles Town, upon Ashley River, and the five persons chosen to represent the people were Mr. Thomas Gray, Mr. Maurice Mathews, Lieutenant Henry Hughes, Mr. Christopher Portman, and Mr. Ralph Marshall. These were presented to the Governor and the Lords Proprietors' deputies as members of the Grand Council for the people. At a meeting of the Governor and Council on the 28th, there were sitting and present the Governor, Sir John Yeamans, Captain John Godfrey, Mr. William Owen, Mr. Thomas Gray, Mr. John Foster, Mr. Maurice Mathews, Mr. Henry Hughes, and Mr. Ralph Marshall.<sup>3</sup> The Barbadians had already acquired position. Sir John Yeamans appears as deputy for Lord Berkeley, John Godfrey for Earl Craven, and Thomas Gray represents the people in the Council. John Coming, Halsted's mate, writes to Sir John Colleton that the Barbadians endeavor to rule all.<sup>4</sup> They had joined Owen, Mathews, and Sullivan against Governor West.<sup>5</sup> Lord Ashley was the recipient of complaints from all parties. West, Bull, Braine, Godfrey, and Dalton all complain of O'Sul-

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 612.

<sup>2</sup> *Ibid.*

<sup>3</sup> Dalcho's *Ch. Hist.*, 11.

<sup>4</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 277, 664.

<sup>5</sup> *Ibid.*, 279.

livan as incompetent as a Surveyor ; some of them object to his conduct.<sup>1</sup> Yeamans charges that West is proud and peevish, and will not call a Parliament for fear his election or actions should be questioned.<sup>2</sup> Halsted says that West is a person faithful and stout, but no good Governor; that Yeamans is disaffected and too selfish.<sup>3</sup> Gray accuses West of turning Scrivener and Mathews out of the Council, and declaring he cared not what became of the government. Lord Ashley replies to them all, addressing each as his "very affectionate friend." John Locke's connection with Carolina was not only as the author of the Fundamental Constitutions, but it is well known that he took a deep interest in the settling of the colony. Living at Exeter House with Lord Ashley as his secretary, he continued to attend to its affairs, and took great part in its management during Shaftesbury's rule. Many of the letters in the letter book of the Shaftesbury collection are in his handwriting, and it may be inferred that these of Lord Ashley were all written by him.<sup>4</sup>

The Fundamental Constitutions provided that the eldest of the Lords Proprietors who should be personally present in Carolina should, of course, be the Palatine's deputy; and if no Proprietor be present, then the eldest of the Landgraves. Sir John Yeamans now asserted his right under this provision. At a meeting of the Grand Council on the 14th of December he claimed that as he was a Landgrave — and the only Landgrave present, — he was therefore Vice Palatine, and consequently Governor of the province; <sup>5</sup> it does not appear, however, that he could get

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 259, 278, 329, 472, 736.

<sup>2</sup> *Ibid.*, 278, 664.

<sup>3</sup> *Ibid.*, 278.

<sup>4</sup> *Ibid.*, Preface, xxi.

<sup>5</sup> *Ibid.*, 281.



even the support of the Barbadians in the Council for the claim, which was certainly not without foundation. On the contrary, the Council “resolved and advised (*nemine contra dicenti*) that it is not safe or warrantable to remove the government as it is at present, until a signal nomination from the Palatine or further orders or directions be received from the Lords Proprietors.”<sup>1</sup>

Yeamans had in fact, however, already been commissioned as Governor. His commission is dated August 21, 1671; but it was not sent until September 18, when Lord Ashley writes he is glad to know that Sir John is in Carolina, and shall expect good success to their new settlement when it shall be countenanced and conducted by so judicious and worthy a person. He has, therefore, sent him a commission, and relies upon his being firm and industrious in settling the government.<sup>2</sup> To Mr. West, “his very affectionate friend,” he writes December 16, explaining that it was through no personal dislike or disrespect to him that Sir John Yeamans was made Governor, but the nature of the government, which required that a Landgrave should be preferred to any commoner.<sup>3</sup> As a reward for West’s services, the Proprietors created him a Cacique, made him Registrar of Writings, and required that not only the titles of the Proprietors, but that all deeds amongst the colonists, should be recorded, as provided by the Fundamental Constitutions; no deed to be good without registry.<sup>4</sup>

To another State has been given the credit for first devising a system of recording deeds and mortgages.<sup>5</sup>

<sup>1</sup> *Hist. Sketches* (Rivers), 108; Appendix, 377.

<sup>2</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 606, 630.

<sup>3</sup> *Ibid.*, 695.

<sup>4</sup> *Ibid.*, 721, 865, 870.

<sup>5</sup> Massachusetts. *The Puritan in England, Scotland, and America* (Campbell), vol. I, 75 *et seq.* The recording of ordinary conveyances

We here see the registry system was adopted in Carolina with the very inception of its settlement. The truth is that from the very necessities of the occasion a registration of the surveys and grants of land in the new country was indispensable. The Domesday Book of William the Conqueror was the registration of the surveys and grants of the lands of England made by him, and to that ancient record must the title of all lands be traced. Once the redistribution of the lands in England was made and recorded, the metes and bounds were preserved by the people who were then settled upon them, and when any questions arose as to their location, they were settled by the "perambulation" or "viewing" by the parishioners or neighbors. The boundaries in England were thus perpetually preserved by custom and tradition; but in settling a new country, especially one cut up by rivers and swamps, the survey and map alone could locate and de-

began at an early period in Virginia. In October, 1626, the rule was laid down by the General Court that the documents in all sales of land in Virginia should be brought to Jamestown and enrolled in that court in the space of twelve months and a day following the date of each. There are many records of conveyances between private parties prior to 1630. *Economic Hist. of Virginia in the Seventeenth Century* (Bruce), 1896, vol. I, 570. There is nothing new in the American idea of registration. Even before the conquest in England, publicity of transfer was secured by a system of record in the shire or church book. After the conquest, the publicity continued for a time in Domesday Book and for some purposes by the Statute of Enrolments, 27 Henry VIII, c. 16. A registry was established for the Bedford Level in the same year that the first charter of Carolina to the Proprietors was granted, 1663. There were frequent efforts to establish a general registration law in England. Lord Keeper Guilford warmly advocated a registration system, but it was opposed by Lord Chief Justice Hale. North's *Lives of the Norths*, vol. I, 224. There was, however, a great prejudice in England against the system. Blackstone observed that however plausible such provisions might appear, it was doubted by very competent judges whether more disputes were not caused in those counties in which the system prevailed, by inattention and omissions of parties, than had been prevented. 2 *Com.*, c. 20.



scribe the grant, which was defined merely by imaginary lines. There could be no such thing as the actual delivery of possession of lands occupied only by Indians and wild beasts; hence again it became necessary to record not only the original surveys, but all transfers of the rights granted under them. The office of Surveyor General was also therefore of great consequence, especially under the Fundamental Constitutions, which required the whole province to be surveyed and laid out in seigniories, baronies, and colonies. Captain Florence O'Sullivan was the first Surveyor General, but the complaints against him were numerous. He was no surveyor, it was said, and was charged with ignorance and incompetence, with promising much and performing nothing.<sup>1</sup> So with the commission of Governor to Sir John Yeamans, the Lords Proprietors sent out one as Surveyor General to John Culpepper, who had come out with him from Barbadoes.<sup>2</sup> These commissions were issued in December, 1671,<sup>3</sup> and Culpepper appears to have at once entered upon his duty; for while West was still Governor, Culpepper made a rough draught or sketch of the settlement of Charles Town for the Proprietors, giving the location of the tracts of land and town lots taken up by the colonists. In this plat it is to be observed that he marks a certain tract of 300 acres as "Land reserved by Governor & Counsell to be disposed of at their pleasure, I suppose for a minister or governor."

On April 19, 1672, Sir John Yeamans was proclaimed at Charles Town and a proclamation was also immediately issued to dissolve "all parliament and parliamentary con-

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 184, 278, 329, 621, 736.

<sup>2</sup> *Ibid.*, 688.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 98.



nections heretofore had or made in the province," and all the freemen in the colony were summoned to assemble on the 20th to elect a new Parliament. Twenty members were accordingly elected, who chose from their number, as members of the Grand Council, Stephen Bull, Christopher Portman, Richard Conant, Ralph Marshall, and John Robinson. The deputies were Colonel West, Captain Thomas Gray, Captain John Godfrey, Maurice Mathews, and William Owen.<sup>1</sup>

In the letter accompanying his commission, Lord Ashley writes to Governor Yeamans recommending him to make another port town on the Ashley, and giving him directions as to the choice of the ground. The present site was too low, it must needs be unhealthy, and would bring disrepute upon their new settlement. He must lay out the great port town into regular streets, for, be the buildings never so mean and thin at first, yet as the town increases in riches and people the void places will be filled up and the buildings will grow more beautiful. He recommends six score squares of 300 feet each, to be divided one from the other by streets and alleys, and that no man should have above one of those squares to one house. The great street should not be less than 100 or six score feet broad; the lesser streets none less than sixty; alleys eight or ten feet.

The first acts of the new administration were directed to the survey and recording of the lands granted to the settlers with a view to the more definite claims of quit-rent and the introduction of more of the forms of the Fundamental Constitutions. Stricter regulations were ordained against persons leaving the colony. Those who should desire to do so were required to set up their names in the Secretary's office, and if any person objected to their

<sup>1</sup> *Hist. Sketches (Rivers)*, 109.

departure he wrote his name within twenty-one days beneath the names so set up, and the reasons for his objection were heard by the Council before a permission for leave could be obtained. On the 27th of June, 1673, the Council ordered an extension of the time of advertisement to six weeks. Such a provision was common to the colonies and was intended to prevent debtors from absconding. So Halsted writes to Shaftesbury that he carries no one from Barbadoes without a ticket.<sup>1</sup> It was resolved by the Council that for the better safety of the settlement the Governor should live in town. This, it is supposed, was induced because Sir John Yeamans had retired to his country house when the people refused to recognize him as Governor upon his arrival.

In pursuance of his instructions, Governor Yeamans proceeded to lay out the site of another town. It so happened that the present site of the city of Charleston, — the point formed by the confluence of the Kiawha, or Ashley, and the Wando, or Cooper, River — had been taken up by Henry Hughes and John Coming. With Hughes the readers of this history are well acquainted. Coming had come out as mate of Henry Braine, captain of the *Carolina*. Halsted describes him as a good sailor but ambitious.<sup>2</sup> Tradition relates that his conduct having been criticised for the loss of a vessel on Charles Town bar, which was charged to have been from cowardice, he crossed the Atlantic in a longboat, which he raised and decked for the purpose to vindicate his courage.<sup>3</sup> He subsequently became a prosperous planter in the province.

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 110; *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 326. A similar regulation prevailed in Virginia. See Bruce's *Economic Hist. of Va.*, vol. II, 367.

<sup>2</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 326.

<sup>3</sup> MSS. of Elias Ball, now in possession of Mr. Isaac Ball of Charleston.

As early as February 25, 1671-72 Hughes and Coming, the latter with his wife Affra, appeared before the Grand Council and voluntarily surrendered the half of their lands upon Oyster Point, "to be employed in and toward the outlaying of a town and commons of pasture there intended to be erected."<sup>1</sup> On the 20th of July Governor Yeamans by and with the advice of his Council issued the following warrant to John Culpepper: —

"You are forthwith to admeasure and lay out for a town on Oyster point all that point of land then *formerly allotted for the same* adding thereto one hundred and fifty acres of land or so much thereof as you shall find to be proportionable for the said one hundred and fifty acres in the breadth of land *formerly* marked to be laid out for Mr. Henry Hughes Mr. John Coming and Affra his now wife, and James Robinson estimated to be seven hundred acres," etc.

Mr. Hughes's land was retained by the Grand Council; Mr. Coming's was released. The town thus laid off originally extended no farther west than the present Meeting Street, nor farther north than Broad Street, nor south than Water Street. The land to the south of the town obtained the name of Coming's Point and White Point, no doubt from the whiteness of the oyster shells upon it. It was not, however, as yet intended to abandon the old town on the Ashley; for the settlers there were then engaged in building a fort which was finished in May, 1672, and in June an act was passed for the uniform rebuilding of the town. In accordance with this act, the old town was laid out anew and was divided into sixty-two lots. Those who owned lots gave them up and a redistribution was made on the 22d of July.<sup>2</sup>

<sup>1</sup> Dalcho's *Ch. Hist.*, 15.

<sup>2</sup> The following are the names of the persons to whom the lots were assigned and the numbers given them. The list is useful as giving the names of the principal people then in the colony: Thomas Ingram, No. 58; Samuel West, 31; William Owen, 32, 23; Captain Henry Braine, 30;



Colonel West, the former Governor, besides being register of writings, was superintendent of the plantation and stores of the Proprietors, and thus especially charged with the care of their individual interests. In June, 1672, he procured an order from the Council that twenty persons from the debtors to the Proprietors should furnish servants to cut and prepare a cargo of lumber for the *Blessing* at its next arrival. Governor Yeamans, on the other hand, was entering upon plans which demanded an increased expenditure of the private resources of the Proprietors. The colony was placed in a state of security against invasion, cannon were mounted at Stono Creek, and a "great gun" was fired at Charles Town on the approach of any vessel. The inhabitants were armed and six companies were enrolled under Lieutenant Colonel Godfrey. Surely these were all legitimate and proper expenses to be borne by the owners of a large part of the great new Continent,—but the Proprietors, in their niggardly conduct, bitterly complained that instead of

Lieutenant Henry Hughes, 3; John Coming, 29; Captain Florence O'Sullivan, 5, 6, 26, 27; John Williamson, 7; Ralph Marshall, 8; Captain Stephen Bull, 25, 24; Captain Joseph Bayley, 9; Sir John Yeamans, 22; Richard Deyos, 19; James Jours, 14; Thomas Turpin, 33; Priscilla Burke, 28; Major Thomas Gray, 10; John Foster, 11; Richard Batin, 13; Henry Wood, 15; George Beadon, 40, 20; Ensign Hugh Carteret, 18; Captain George Thomas, bought of William Kennis, 16, 17; Captain Nathaniel Sayle, 59, 60; Thomas Hurt, for his wife, 61; the Lords Proprietors, 50, 51, 52, 53, 62; Captain Maurice Mathews, 37, 54; Michael Smith, 38; Thomas Thompson, 55; Captain Gyles Hall, 12; Thomas and James Smith, 41, 57; Richard Cole, 42; Joseph Dalton, 44; John Pinkerd, 36; Joseph Pendarvis, 45; John Maverick, 43; Philip Comerton, number not designated, but either 21, 39, 48, 49, which are not stated to have been delivered; Christopher Portman, 4; Ensign Henry Prettye, 56; Timothy Biggs, 34; Charles Miller, 46; John Culpepper, 35; Captain John Robinson, 47; Ensign Boone, 2; and Edward Mathews, 1. See *Fragment of Journals in Grant Book*, 1672-94, Sec. of State's office, Columbia; Dalcho's *Ch. Hist.*, 17, 18; *Hist. Sketches of So. Ca. (Rivers)*, 128.

being repaid what had already been advanced by them, a debt of several thousand pounds had been incurred before the end of 1673 and that they were still solicited for further aid and a stock of cattle from England. A more serious charge against Sir John was that, while the settlers could scarcely raise sufficient provisions for their own consumption, he was buying up the produce of the colony and exporting it at great gain to the Island of Barbadoes.

The Proprietors had scarcely commissioned Sir John before letters from Carolina arrived, telling how he had claimed the government under the Fundamental Constitutions without waiting their appointment, and of his great unpopularity. The Earl of Shaftesbury, to which dignity Lord Ashley had just been raised (April 23, 1672), upon the receipt of these complaints sends a letter, no doubt written by Locke, "a masterpiece of composition" as it has been said,<sup>1</sup> in which he gently remonstrates with "his very affectionate friend Sir John" and advises him "not to make use of the government put into his hands to revenge himself on any who had spoken their apprehensions with that freedom which must be allowed in a country wherein men are not designed to be oppressed, and where they may justly expect equal justice and protection." He had too great a value for Sir John's condition and ability, he said, not to desire the continuance of a right understanding between them, and therefore must take the liberty to deal freely with him in a matter wherein they were both concerned, and to tell him that he could not avoid thinking that the suspicions of those who had expressed some fear of his management of the government had some ground. His too forward conduct in grasping at the government when he first arrived in Carolina, and his

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, Preface, xxi.



endeavors since to diminish the authority of certain deputies who had power to represent the Proprietors, had even at that distance given some umbrage.<sup>1</sup>

While the Proprietors, on the one hand, were, stingily, quarrelling with every expenditure in the colony, on the other, their minds were filled with schemes of grandeur and magnificence in the government they were attempting to settle in the wilds of America. "A debt of several thousand pounds" appalled them, even though it was to be incurred in laying out and settling hundreds of thousands of acres in seigniories, baronies, and manors for Landgraves and Caciques. Instead of providing the means for colonizing their immense domain even in part, their time was spent in drawing on paper grand plans of imaginary and impossible governments, and sending them out to be put in operation among a few hundred adventurers who had hardly the means of living. Their legislative activity was surely extraordinary.

It will be remembered that Locke's original draft of the Fundamental Constitutions of March, 1670, had been modified in some particulars, and, thus modified, had been solemnly adopted on the 20th of July, 1670. To these latter, which are known as the *first* set, and which had been declaimed "sacred and unalterable," the colonists had been required to subscribe and swear submission. While they had never been adopted by a Parliament which alone could give them authority under the charter, they had thus been forced upon the people individually. With a determination which seems purposed merely to irritate the people, the Proprietors, well aware that this condition of the province would not, at least yet, admit of the enforcement of either set, now sent out a printed copy of Locke's

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 861; *Colonial Records of No. Ca.*, vol. I, 212.



original draft, but to which, it is said, they added the clause that appears as Article 96, in the set to be found in the first volume of the Statutes of South Carolina, directing the building of churches and the public maintenance of divines of the Church of England, which it declared to be the only true and orthodox religion.<sup>1</sup> The Church of England, as we have before explained, was already the established church under the charter; but, not content with the fact, the seven Proprietors who were adherents of Episcopacy — Shaftesbury having no predilection upon the subject<sup>2</sup> — now required a declaration that the Church of England was the only *true and orthodox religion*. Locke's original draft, with this inconsistent provision imposed upon it, — if so be that Locke did not draw it himself, — now becoming known as the Second Set, was adopted by the Proprietors on the 26th of June, 1672; they do not appear, however, to have been received by the Governor in Carolina until the 8th of February, 1673–74. The Parliament refused to recognize them.

That the Proprietors were well aware that no substantial purpose could be effected by this attempt to force these Constitutions upon the colony at this time is manifest, for with them they also sent two other remarkable legislative productions. These were termed “Temporary Laws” and “Agrarian Laws.”

“Since the paucity of nobility,” they said, “will not permit the Fundamental Constitutions presently to be put in practice, it is necessary for the supply of that defect

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 117, 118; Appendix, 420.

<sup>2</sup> Bishop Burnet says of Shaftesbury: “He was to religion a Deist at best. He had the dotage of Astrology about him to a high degree. He told me that a Dutch doctor had from the stars foretold him the whole series of his life. But that which was before him when he told me this proved false, if he told me true. For he said he was yet to be a greater man than he had been.” — *History of his Own Times*, vol. I, 96.

that some *temporary laws* should in the meantime be made for the better ordering of affairs till by a sufficient number of inhabitants of all degrees the government of Carolina can be administered according to the form established in the Fundamental Constitutions, we the Lords Proprietors have agreed to the following.”

The first, second, and third articles of these Temporary Laws repeat in short form the provisions in regard to the nomination of deputies by the Palatines and other Proprietors; admit the nobility as members of the Grand Council; appoint the chief officers in the province with the same high-sounding titles; declare the powers of the Council, the quorum of which should be the Governor and six councillors, whereof three at least shall be deputies of Proprietors. 4. In case of the death or departure of a deputy, his place should be supplied by the eldest of the councillors chosen by Parliament until another deputy be appointed. 5. Parliament to consist of the Governor, deputies, nobility, and twenty delegates of the freeholders to be assembled and to make laws agreeably to provisions of the Fundamental Constitutions. 6. All acts of such Parliament to cease at the end of the first Parliament convened after the Constitution should be put in force. 7. As much of the Constitutions as practicable to be the rule of proceeding.<sup>1</sup>

The Agrarian Laws, which are twenty-three in number, were anything but such as would be inferred from their title. They were concerned entirely with the interests of the Proprietors and nobility, and the proportionate division of their landed estates. The distribution of the people's share is alluded to only incidentally. The preamble solemnly announces a principle most inconsistent with the provisions which follow. “Since the whole foundation

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 119; Appendix, 354.

of the government," it declares, "is settled upon right and equal distribution of land and the orderly taking up of it of great moment to the welfare of the province," it goes on to provide that one-fifth of all shall be secured to the Proprietors, one-fifth to the nobility, and the rest to the people.<sup>1</sup>

There was no authority for such "Temporary Laws" under the charter. The provisions of that instrument allowed for such only upon an emergency, when an assembly of the freeholders could not be convened. It did not authorize such regulations of indefinite continuance without the assent of the people. The Agrarian Laws did not purport to be of merely temporary character; on the contrary, they provided for the permanent distribution of lands. They were likewise not in accordance with the terms of the charter, and so were not constitutionally of force.

Hewatt mentions that during the government of Sir John Yeamans a civil disturbance broke out which threatened the ruin of the settlement; that it had been fomented by Culpepper, with the connivance of O'Sullivan; and that during these commotions the colonists were anticipating an invasion from the Spaniards of St. Augustine. It is said that O'Sullivan, who had been put in charge of the cannon on the island which now bears his name, in order to alarm the town in case of the appearance off the bar of any of the Spanish vessels, being ready to perish with hunger, deserted his charge and took part with Culpepper in the disturbance at Charles Town, where he was arrested by the Marshal for sedition and required to give security for his good conduct.<sup>2</sup> Chalmers, in his account of Cul-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 119; Appendix, 355.

<sup>2</sup> Hewatt, *Hist. of So. Ca.*, vol. I, 62; *Hist. Sketches of So. Ca.* (Rivers), 112, note.



pepper's insurrection in North Carolina in 1677, speaks of him as one who had in 1671 been appointed Surveyor General of Carolina, and who had raised commotions on the Ashley River.<sup>1</sup> We can find no contemporary allusions to such events. Braine, in a letter to Lord Ashley, November, 1670, accuses O'Sullivan of rash and base dealings and abuse of the Governor, Council, and country,<sup>2</sup> but this was during the administration of West, not during that of Yeamans.

The apprehension of an attack by the Spaniards at this time was not, however, without some foundation. The facilities for escape of servants and slaves to Florida, and their detention and protection there by the Spaniards, would have furnished a continual cause of irritation between the two colonies had none other existed. The first purpose of slaves deserting their masters in Carolina was to reach St. Augustine. In this they were sometimes frustrated by Indians sent out in pursuit, who overtook and captured them. Brian Fitzpatrick, described as "a noted villain," who had before been punished by the Grand Council, now deserted to the Spaniards and informed them of the distressed condition of the colony. An attacking party was immediately dispatched from the Spanish garrison and took post at St. Helena Island. The hostile and warlike Indian tribe of Westoes, doubtless under the same influence, also began to exhibit a troublesome disposition and were said to be lurking to the southward of Charles Town with hostile purpose.

At a meeting of the Grand Council on July 2, 1672, it was promptly resolved to dispatch a party of thirty men against the Westoes, and on the 9th the inhabitants were organized into a military body. John Godfrey was

<sup>1</sup> Chalmers, *Political Annals*, Carroll's Coll., vol. II, 304.

<sup>2</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 329.

appointed Lieutenant Colonel; Thomas Gray, Major, Captains, Maurice Mathews, John Robinson, Richard Conant, the seditious Florence O'Sullivan, and Robert Donne, who but six months before had been cashiered for abetting the stealing of a turkey. Donne, we must presume, was a good soldier, notwithstanding his foraging habits. On the approach of Colonel Godfrey with fifty volunteers, the Spaniards retreated to St. Augustine, and the Westoes were unwilling to risk an engagement while the intervening small tribes continued friendly to the English.<sup>1</sup>

Sir John Yeamans was about to be removed. The necessities of the people at the close of his administration were of so pressing a nature, it is said, as to occasion great disquietude, but these were relieved by the seasonable arrival of the Proprietor's ship. It is worthy of remark, however, observes Rivers, that there appears never to have been so great a scarcity of food as to endanger the lives of the people. There was no "starving time" in Carolina, as there had been in Virginia during its first settlement. There were failures at first in the attempt to raise such grains and fruits as were not best adapted to the soil and climate; but fish and oysters, an abundance of game in the woods, the fertility of the land in producing Indian corn and peas, were sufficient to insure the settlement from any fear of starvation. Even in the times of greatest complaint in 1673, provisions were exported to Barbadoes. That Governor Yeamans engaged too extensively in these exports was perhaps the chief cause of the clamors and discontents of the people. To these was added the same causes of dissatisfaction that had existed at Chowan and Cape Fear. The Proprietors in their parsimony were unwilling to send any more supplies. They

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 112, 125; Appendix, 382.

turned again to West, who, if less ambitious than Sir John, was more economical in his administration. But West was still only a Cacique. So, on May 18, 1674, the Proprietors send a patent appointing him a Landgrave and a commission as Governor, and declare that he has all along, by his care and fidelity and prudence in the management of their affairs, recommended himself to them "as the fittest man for their trust." They had made West give way to Yeamans; they now proceed to arraign Yeamans's conduct to West. They cannot forbear plainly to say, they wrote, though they had a great regard for Sir John Yeamans, that when Mr. West bore the management of their affairs they had had some encouragement to send supplies, but immediately as Sir John had assumed the government the face of things had been altered. Their first reports from him were proposals for increasing their Lordships' charges, and in his last dispatches he had sent a scheme which would require disbursements of several thousand pounds. He had insinuated that their Lordships had dealt ill with the colonists because they would not continue to feed and clothe them without promise of returns. They had put a stop to the supplies, for they thought it time to give over a charge which was like to have no end; that the country was not worth having at that rate. It must be a bad soil, indeed, that would not maintain industrious people. They would not be so silly as to maintain the idle. But it was not the fault of the soil. Indeed, some of the Proprietors were so well assured of this, that at their own individual charges they were going to settle a plantation in the Edisto without expecting assistance of the Proprietors generally. They were well satisfied that it was Sir John Yeamans's management that had brought things to this pass. His management had been to make this province



subservient to Barbadoes. They referred to the frequent mention of wanting a stock of cattle, and declared the design of the Lords Proprietors was to have planters in Carolina, not graziers. If their intention was to stock the province, their Lordships could do better by their own bailiffs and servants, who would be more obedient to their orders.<sup>1</sup>

Sir John had previously retired to Barbadoes in feeble health, where he died in August, 1674, possessed of considerable wealth, but having lost much of the reputation which he enjoyed when he entered upon the government of the colony. Halsted, in a letter to the Proprietors, does not hesitate to charge Sir John and Captain Gray with complicity in the death of an Indian killed by the "noted villain" Fitzpatrick.<sup>2</sup> Nor was this the first charge of the kind which had been made against him. The Assembly at Barbadoes had accused him to Lord Willoughby, the Governor, in 1667, of conspiring against the life of a man "for noe other reason but that he had a mind to the other gentlemans wife."<sup>3</sup> The truth is, that the glimpses we get through the records of the time, of the men who formed the first settlers of the colony on the Ashley, do not inspire us with great regard for their characters generally, or lead us to believe that they were others than such as might have been expected to be found in such an enterprise. They were adventurers whom one cause or another—domestic or political—had induced to seek in the New World fortunes they could not achieve in the Old. There was certainly little material among them for the "nobility" of Landgraves and Caciques under the Fundamental Constitutions, even though we do not

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 1277.

<sup>2</sup> *Ibid.*, 664.

<sup>3</sup> *Colonial Records of No. Ca.*, vol. I, 177.

accept Archdale's description of them as "the most desperate fortunes" who first "ventured over to break the ice," "being generally the ill livers of the pretended churchmen."<sup>1</sup>

<sup>1</sup> *A Description of Carolina* (Archdale), Carroll's *Coll.*, 100.

## CHAPTER VIII

1674-82

GOVERNOR WEST'S previous administration had been only temporary in its character, under appointment by Governor Sayle upon his death-bed, with the approbation of the Council, until the pleasure of the Lords Proprietors could be known. They had set him aside and appointed Sir John Yeamans, because, as they said, of Sir John's being a Landgrave. West was now regularly commissioned Governor and entered upon an administration which was to last for eight years, during which the colony was to be settled upon a firm foundation, and by his wise and prudent conduct to enjoy for a short time the peace and order so necessary for its successful growth and prosperity.

The Earl of Shaftesbury had informed West in the letter which announced his appointment as Governor, that so satisfied were some of the Proprietors with the soil and advantages of the country that they intended to settle a plantation on the Edisto at their own individual cost. This they now proceeded to do, and to facilitate them in their new enterprise, the Proprietors, as a body, laid out for these individual proprietors a plantation on both sides of the Edisto, or Ashepoo, River, of which they granted a commission as Governor to Andrew Percival, limiting Governor West's jurisdiction to five miles south of the Ashley, and instructing Gov-



ernor West to afford all countenance, help, and assistance to the plantations on Locke Island, as the settlement was to be called. In one respect, however, they did not make the plantations independent of that on the Ashley. They did not authorize Governor Percival to issue warrants for lands, but retained this power in Governor West's hands, instructing him, however, to affix the seal to all such grants as Percival should send to him. The scheme, which was the first attempt to plant an outpost between the colonists on the Ashley and unfriendly Indians, did not succeed. It was abandoned and Percival was appointed in June, 1675, Register of Berkeley County and other parts adjoining.<sup>1</sup> The plan, it is supposed, originated with the Earl of Shaftesbury,<sup>2</sup> possibly with Locke, in honor of whom it is probable the new government was named. This attempt presents another illustration of the uncertainty and impracticability of the plans of the Proprietors. The scheme of the Fundamental Constitutions was absurdly out of proportion, in its grandeur and elaborateness, even for a single government in a new country; and yet here were their Lordships setting up another government within thirty miles of that on the Ashley, and with the commission to Percival sending also a copy of those extraordinary laws for his guidance and direction. They had now three separate governments in the province of Carolina, for which Landgraves and Caciques, and all the high officers required by the Constitutions, were to be provided. There was the government at Albemarle, that at Ashley, and now this attempt at one on the Edisto; and between that at Albemarle and that at Ashley had been the attempt at Cape Fear.

<sup>1</sup> *Hist. Sketches* (Rivers), 121, Appendix, 387, 388; *Public Records of So. Ca.* (MSS.), vol. I.

<sup>2</sup> *Hist. Sketches* (Rivers), 121.

The Earl of Shaftesbury soon after, at his own expense, engaged Dr. Henry Woodward to enter upon the exploration of the country of the Westoes and Cussatoes. The result of this visit was a treaty of peace and friendship between these nations and the English in Carolina. A comparison of the strength and resources of these Indians and the still feeble colonists induced the Proprietors (as they said) to shield the latter by restricting their intercourse with the tribes westward of Charles Town; but the restraints now put upon the Indian trade was not, says Rivers, free from selfish motives on the part of the Proprietors. They knew that furs and deer-skins, obtained in traffic for trifling articles, formed the principal source of gain to the industrious traders, among whom were the chief men in the colony. If frauds and abuses occurred, a prevention of them would not surely follow the restricting of the trade to Proprietary agents. In April, 1677, Albemarle, Shaftesbury, Clarendon, and Colleton agreed to contribute each £100 to be placed in the hands of Mr. William Saxby, then secretary and treasurer, for carrying on the Indian trade, allowing one-fifth of the clear profit to Dr. Woodward, according to a previous contract between him and the Earl of Shaftesbury. At the same time they issued an "Order and Command" to the "governor council and other inhabitants of our province of Carolina," forbidding any of them, under pain of prosecution and severe punishment, to trade during seven years with these or other Indians living beyond Port Royal, but leaving open to the settlers the trade for a considerable distance on the sea-coast, "and any other way not less than one hundred miles from their plantation which is all they can pretend or expect from us," continue their Lordships, "it being in justice and reason fit that we should not be interrupted by them in our treaties and

transactions with these nations that inhabit these distant countries with whom by our grant and charter from his Majesty we only have authority to treat or to inter-meddle.”<sup>1</sup>

Again we observe the utter disregard by the Proprietors even of their own favorite and “unalterable” Fundamental Constitutions, when the provisions even of those laws interfered in the least with their interests or views of the moment. By the terms of the Constitutions they had committed to the Grand Council the power “to make peace and war, leagues and treaties with any of the neighboring Indians.” Under this authority the Council had acted; they had declared war, made peace, and entered into treaties. It was scarcely to be expected that, situated as the colonists were, with their families exposed to the tomahawk and scalping-knife, they would leave the important matter of their relations with the savages to be governed by the diplomacy of any set of men on the other side of the Atlantic.<sup>2</sup> It is needless to add that they disregarded the instructions and took care of themselves.

To the Earl of Shaftesbury is ascribed the credit of a more sensible measure; a measure which, if adopted, might have allayed, at least to some degree, the hostility of the irritable and warlike natives, and have secured at less cost the peace and safety of the settlers. The Proprietors claimed to be the sole owners of every acre of Carolina under King’s grants, and they had expected the colonies to be established by driving the Indians away from the lands over which they and their ancestors had roamed from time immemorial. They were to be dealt with as savages deserved if they resisted the rights con-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 122, 123.

<sup>2</sup> *Ibid.*, 123.



ferred by his Majesty King Charles II of England; and it had been forbidden to purchase land from them. Shaftesbury now proposed—and in this we can scarcely doubt the influence of Locke—to revoke this order. This was, of course, little better than resorting to fraud rather than to force. The so-called purchases were made for no adequate consideration from the Proprietors to the Indians. A few glittering trinkets and bright-colored ribbons and cloths, of little value, was the coin in which the Proprietors paid for the most valuable of all property,—land. There is, however, this to be said on the other side of the question; *i.e.* that the Indians themselves were selling what they did not own. They were selling and conveying land tenures, the nature of which they had no conception, and hence to which they had no rights. The chief value of the deeds which the Indians signed was really as a “color of title” against other Europeans.

The first deed of transfer on record was made in March, 1675, to Andrew Percival for the Earl of Shaftesbury and the rest of the Lords Proprietors, “for and in consideration of a valuable piece of cloth, hatchets, beads and other goods and manufactures.” The territory ceded was that of “Greater and Lesser Casor lying on the River Kyewaw, the River Stono, and the fresher of the River Edisto.” Perhaps to strengthen the deed of conveyance, the signatures were taken of an odd assembly of Indians, there being the marks and *seals* of four Caciques, the marks of eleven war-captains and fourteen “woman captains.” In 1682 and subsequently, lands were ceded by the Caciques of Wimbee, Stono, Combahee, Kussah, Edisto, Ashepoo, Witcheaw, and by the Queen and Captain of St. Helena, who generously surrendered (to please the English) their lands in a northwestward direction as far as the “Appalachian Mountains,” although they had not

even the claim of occupancy to any great distance from the sea-coast. All the northwest portion of the province was possessed by the populous and powerful Cherokees.<sup>1</sup>

The first accession to the number of original settlers, as we have seen, came from Barbadoes. Immigrants continued to arrive in small parties from England in the Proprietors' ship the *Blessing*, from the West Indies in the *Carolina*, and in Captain Halsted's ship, in their respective voyages. Then had come the Dutch colony from *Nova Belgia* or New York. To induce immigration, the Proprietors had, in 1672, offered liberal concessions to freemen and servants from Ireland, particularly if they would come in sufficient numbers to make up a community and form a town by themselves "wherein they may have the free exercise of their religion according to their own discipline." In June, 1676, a whole colony of 12,000 acres was promised to Mr. John Berkly, Simon Perkins, Anthony Laine, and John Pettitt, upon their landing in Carolina.<sup>2</sup> In March, 1679, René Petit, his Majesty's agent at Rouen, Jacob Grinard of Normandy, Gentleman, and Sir Thomas Dolmans petitioned the King for the transportation of several French Protestant families to Carolina. Their petition was referred to the Committee of Trade and Plantations<sup>3</sup> in the Council at Whitehall, who recommended to his Majesty to give orders for the fitting out of two ships (neither of which may draw twelve feet of water) as may be fit to transport the said

<sup>1</sup> *Hist. Sketches of So. Ca.*, 123-125.

<sup>2</sup> *Ibid.* (Rivers), 120, 121.

<sup>3</sup> The Committee of Trade and Plantations was one appointed by the Privy Council of Great Britain, to whom was referred all matters relating to the American colonies, and who had a general jurisdiction and supervision over them. They were also called the Lords of the Committee of Trade and Plantations. See *Government of the Colony of So. Ca.* (Whitney); *Johns Hopkins Univ. Studies*, 13th Series, 1-11.

families, provided that the said families should give a list of their names with sufficient assurance that they would take sufficient victuals and provisions for themselves for the voyage, and that the said families should come from abroad or had arrived in England for the purpose and design of going to Carolina. Several such families availed themselves of this offer, and on the 17th of December the Lords Proprietors write to the Governor and Council in Carolina recommending them to their care, as, being skilled in the manufacture of certain commodities, they might instruct the English settlers. They directed a grant to René Petit and Jacob Grinard of 4000 acres of land each.<sup>1</sup> One of these vessels was the frigate *Richmond*, which arrived in 1680, bringing out forty-five French refugees. A more considerable number soon followed in the other vessel. In the redistribution of the lots in old Charles Town, Richard Batin, Jacques Jours, and Richard Deyos received town lots. These are assumed to have been French Protestants, but upon what authority is not known. In 1677 grants were made to Jean Balton; in 1678 to Jean Bazant and Richard Gailard.<sup>2</sup> These were the first Huguenots in Carolina of whom there is record. It was expected that the French colonists would be very serviceable to the province by introducing the manufacture of silk and the culture of the olive and the vine. This expectation was not realized. The eggs of the silkworm hatched at sea and the worms perished for want of food; nor did the other branches of industry sought to be promoted by them succeed.<sup>3</sup>

<sup>1</sup> *Hist. Sketches of So. Ca. (Rivers)*, Appendix, 392; *Coll. Hist. Soc. of So. Ca.*, vol. I, 102; *Colonial Records of No. Ca.*, vol. I, 242.

<sup>2</sup> Howe's *Hist. Presbyterian Church*, 73.

<sup>3</sup> *Hist. Sketches of So. Ca. (Rivers)*, 173, 174; Howe's *Hist. Presbyterian Church*, 73.



In the list of emigrants from Barbadoes in the year 1679 we find the names of Robert Daniel, Thomas Drayton, John Ladson, and Arthur Middleton<sup>1</sup>—names which have since been interwoven with the history of the State.

The Proprietors wished to build their chief town on some high land on the Ashley or Cooper, if such could be found free from the sickliness of the coast and the sudden inroads of an enemy's ship. But the explorations of Captain Halsted and the search of the committee of the Grand Council failed to find a more eligible situation than Oyster Point, to which the settlers began generally to move in 1679. Some had fixed their abode there as early as 1672. Such representations were made to the Lords Proprietors as caused them to write to Governor West and the Council on the 17th of December, 1679: "We are informed that this Oyster Point is not only a more convenient place to build a town on than that formerly pitched on by the first settlers, but that the people's inclinations turn thither; we let you know that Oyster Point is the place we do appoint for the port town of which you are to take notice and call it Charles Town."<sup>2</sup> It was ordered at the same time that the public offices should be moved thither and the Grand Council summoned to meet there. In the spring of 1680 the removal was made, and during the same year thirty houses were erected. It was called for a while by some persons New Charles Town, to distinguish it from the old town, which now began to be abandoned; from 1682 it was known for a period of one hundred years simply as Charles Town<sup>3</sup> or Charlestown.

The *Richmond*, his Majesty's ship which brought out

<sup>1</sup> *List of Emigrants to America, 1600-1700* (Hottin).

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 128, 129; *Coll. Hist. Soc. of So. Ca.*, vol. I, 102, 103.

<sup>3</sup> *Ibid.* See note of Rivers giving reason for fixing the time of the removal as of the spring of 1680.

the French Protestants under Petit and Grinard, was also charged with particular instructions to inquire into the state of the country, and T—— A——, Gentleman,<sup>1</sup> a clerk on board of that vessel upon its return in 1682, published a description of the province and of its natural excellences. “The town,” he says, “is regularly laid out into large and capacious streets, which to buildings is a great ornament and beauty. In it they have reserved convenient places for a church, Town House and other public structures, an artillery ground for the exercise of their militia, and wharves for the convenience of their trade and shipping.”<sup>2</sup> The site reserved for a church is that at the corner of Broad and Meeting streets, where stood the original St. Philip’s Church, and now stands St. Michael’s. So this spot, set apart at the very inception of the province, has remained until this day consecrated to the service of God, and separated from all unhallowed worldly and common uses. The first church was soon built. It was black cypress upon a brick foundation, and was described as large and stately, surrounded by a neat palisade. It was usually called the English Church, but its distinctive name was St. Philip’s.<sup>3</sup> It was probably begun during the last of the administration of Governor West, who was distinguished for his piety as well as for his justice and moderation. The Proprietors, as we have seen, had been repeatedly urged by the colonists to send out a clergyman, and they had agreed to allow Mr. Bond a grant of land and a stipend if he would come. He had not done so, but there was a minister of the Church of England in Charles Town at this time. The Rev. Atkin Williamson was here certainly in 1781, probably in 1680, but it is not known at what time previously he

<sup>1</sup> T—— A——, supposed to be Thomas Ash. Carroll’s *Coll.*, vol. I. Preface. <sup>2</sup> Carroll’s *Coll.*, vol. II, 82. <sup>3</sup> Dalcho’s *Ch. Hist.*, 26.



came into the province.<sup>1</sup> As early as 1671 Governor West had endeavored to restrain the licentiousness naturally arising among a new people living without the public ordinances of religion.<sup>2</sup> In May, 1682, acts were passed for the observance of the Lord's Day, and for the suppression of idleness, drunkenness, and profanity. Besides these efforts for promoting the morality of the people, the close of Governor West's second administration was marked by the wisdom of laws enacted for the organization of the militia of the province, and for making high roads from the new town at Oyster Point through the forests that stretched into the interior.<sup>3</sup>

Samuel Wilson, secretary of the Proprietors, also published an account of Carolina about the same time (1682). He states that since the order of the Proprietors appointing Oyster Point as the new town, about a hundred houses had been built, and more were building daily by the persons of all sorts that come there to inhabit from the more northern English colonies, the Sugar Islands, England, and Ireland. That many industrious servants who had served out their terms with their masters, at whose charge they were transported, had gotten good stocks of cattle and servants of their own, had built houses and exercised their trades. That many that went out as servants were then worth several hundred pounds and lived in a very plentiful condition, and their estates increasing; that land near the town was sold for twenty shillings

<sup>1</sup> Bishop Perry, in his *Hist. of the American Episcopal Church*, vol. I, 372, quotes a letter of Commissary Johnson, written in 1710, in which he states that Mr. Williamson had been in the province twenty-nine years, which would imply his arrival in 1681. But in a deed of Originall Jackson and Melisent his wife giving a tract of land for another church, dated January 14, 1680-81, Mr. Williamson is mentioned as then in the colony. The inference is that he had arrived at least as early as some time in 1680.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 130.

<sup>3</sup> *Ibid.*



(i.e. about \$25 of present currency) per acre, though pillaged of all its valuable timber; cleared land fitted for planting and fenced was let for ten shillings per annum the acre, though twenty miles distant from the town. Six men could in six weeks' time fell, clear, fence in, and fit for planting six acres of land. He states that at this town in November, 1680, there rode at one time sixteen sail of vessels, some of which were upwards of 200 tons and came from divers parts of the King's kingdom to trade there, which great concourse of shipping would undoubtedly in a short time make it a considerable town.<sup>1</sup>

Wilson was the secretary for the Lords Proprietors, and so his account may be regarded somewhat as an advertisement colored to induce immigration, but the clerk on the *Richmond* gave an equally pleasing account of the progress of the colony. "At our being there," he writes, "there was judged in the country a 1000 or 1200 souls, but the great number of families from England, Ireland, Barbadoes Jamaica and the Caribbee Islands which daily transport themselves thither, have more than doubled that number."<sup>2</sup>

These accounts agree as to the healthiness of the country. Wilson states that the inhabitants of Carolina are no more liable to agues than those of England; that those in England who seat themselves near great marshes are subject to such attacks and do suffer as those who do likewise in Carolina; that elsewhere the country is exceedingly healthy; and cites an instance of a family consisting of never less than twelve persons, in which there had been no deaths since their arrival in nine years. Nor, he adds, is there one of the masters of families that went over in the first vessel dead of sickness in Carolina except one, who was seventy and five years of age before he came

<sup>1</sup> Carroll's *Coll.*, vol. II, 23, 24.

<sup>2</sup> *Ibid.*, 82.

there.<sup>1</sup> T—— A—— asserts that the Indians prolong their days to the extremity of old age, and that the English hitherto have found no distempers, either epidemical or mortal, but such as have their rise from excess or intemperance. He admits that in July and August they have sometimes touches of agues and fevers, but not violent, of short duration, and never fatal. English children born there are commonly strong and lusty, of sound constitutions, and fresh, ruddy complexions.<sup>2</sup> The whole settlement at this time was upon the rivers and the coast, extending no farther than thirty miles from the town—the region which has since been affected with the deadly, high, bilious, congestive fever. It is clear, therefore, that the country fever, since prevalent in the summer in the low country, was not then known.

Wilson describes the summer as not so hot as in Virginia and the more northern colonies, which he attributes to the sea-breezes which almost constantly arise about eight or nine o'clock within the tropics and blow from the east until about four in the afternoon, and to a north wind which arises a little after, blowing all night, keeping it fresh and cool. Thomas Ash only commits himself to the fact that the summers are not so torrid, hot, and burning as that of their southern, nor the winters so sharp and cold as that of their northern, neighborhood.

The soil was found to be generally very fertile. There were some sandy tracts, but even this land produced good corn. Wheat, rye, barley, oats, and peas thrive exceedingly, and the ground yields in greater abundance than in England; but the chief produce of the field was Indian corn, of which there were two plentiful harvests. Wholesome bread and good biscuits were made of this, and it

<sup>1</sup> Carroll's *Coll.*, vol. I, 26. This allusion is no doubt to Governor Saye, who was, in fact, eighty years of age.

<sup>2</sup> *Ibid.*, 62.

was dressed with milk in various ways, furnishing a strong, sound, and nourishing diet. Of the juice of the corn when green, the Spaniards, with chocolate aromatized with spices, made a rare drink of excellent delicacy. The English among the Caribbees roasted the green ear on the coals, and ate it with great pleasure.

The Indians in Carolina, when on a journey, parch the ripe corn, then pound it into a powder, and put it in a leather bag. To use it, they take a little quantity of the powder in the palms of their hands, and mixing it with water, sup it up. With this they will travel several days. It was described, in short, as a grain of general use to man and beast. The Carolinian had already found a way of making with it good, sound beer, but rather strong and heady, and by maceration, when duly fermented, a strong spirit-like brandy. Tobacco was found to grow very well, but the great trouble in the planting and cure of it, and the great quantities which Virginia and other of his Majesty's plantations produced, did not encourage its planting. Tar of the resinous juice of the pine was made in great quantities ; several tons were transported yearly to Barbadoes, Jamaica, and the Caribbee Islands. Indigo had been tried with success, but had been abandoned, for what reason it could not be learned.

The great increase in cattle, it was said, was more to be admired than believed. In 1674 the Proprietors had refused to send out any live-stock, and the country was destitute of cows, hogs, or sheep. In seven years after, there were many thousands in the province. Individual planters had already 700 or 800 head. They were not subject to any disease, and the little winter did not pinch them so as to be perceived. The planters were thus saved the care of providing fodder for them in the winter. Carolina would thus be able to supply the northern colonies



with salted beef cheaper than they themselves could raise ; for, considering that all the woods in Carolina offered good pasturage, and the small rent that was paid the Proprietors for land, an ox was raised at almost as little expense in Carolina as a hen is in England. So, too, hogs increased abundantly, and in a manner without any charge or trouble to the planter. Ewes also did well, but required a shepherd to drive them to feed, and to bring them home at night to preserve them from wolves. The colonists had begun to breed horses, which bred well. The colts were finer limbed and headed than their dams or sires, which gave great hopes of an excellent breed. Negroes thrived by reason of the mildness of the winter much better than they did in the more northern colonies, and required less clothes, which was a great charge saved.

Living was very cheap in the colony. Indian corn supplied the bread ; the rivers abounded with every kind of fish, near the sea with very good oysters, and the woods with hares, squirrels, raccoons, opossums, and deer. An Indian hunter would kill nine fallow deer in a day. All the considerable planters had an Indian hunter, who supplied them with game. For 20 shillings a year, *i.e.* from \$20 to \$25, one hunter would find a family of thirty persons with as much venison and game as they could well eat. Deer were in such infinite herds that the whole country seemed but one continued park. T—— A—— states, upon the authority of Captain Mathews, that one hunting Indian had yearly killed and brought to his plantation more than 100, sometimes 200, head of deer. Bears were in great numbers. From the fat of these, the Indians made oil which was of great value in making the hair to grow. The Indians had a way of dressing the skins of wild animals rather softer, though not so durable, as that used in England.

The settlers in Carolina were thriving not, as yet, so much as planters as traders. Their trade was principally with Barbadoes and the other West Indies. They exported to England skins and furs, and Indian pelfry and cedar; to Barbadoes, Jamaica, and the Caribbee Islands provisions, pitch, tar, and clapboards, for which they obtained in exchange sugar, rum, molasses, and ginger. Their trade was, unhappily, not restricted to these legitimate articles of commerce. In the Temporary Laws sent out to Sayle it was expressly provided that no Indian, upon any occasion or pretence whatsoever, was to be made a slave or without his own consent be carried out of the country;<sup>1</sup> but this humane provision was disregarded by the Proprietors themselves, and disobeyed by the colonists. It was the Proprietors who first "gave the privilege," to use their own language, of selling Indian captives from Carolina to the West India Islands as the cheapest means of "encouraging the soldiers" of the infant colony.<sup>2</sup> However shocking this may appear to the sentiment of the present age, in judging the conduct of the Proprietors, we must recollect that by the rules of war, at that time, prisoners and captives were regarded as the absolute property of the conquerors, who might take their lives or sell them into bondage,—a rule which was cited and relied upon as international law a hundred years afterwards by the British authorities in Carolina as their justification of the treatment of Americans taken as prisoners of war.<sup>3</sup> The title of the Proprietors rested upon the claims of England to a conquest of this territory,<sup>4</sup> and hence the slavery and exportation

<sup>1</sup> *Hist. Sketches of So. Ca. (Rivers)*, Appendix, 353.      <sup>2</sup> *Ibid.*, 132.

<sup>3</sup> *Royal Gazette* (No. 103), February 20, 1782, Charlestown, South Carolina.

<sup>4</sup> So says Blackstone. See *ante*, p. 51. But from whom conquered,—from the Spaniards or the Indians? If from the Indians, as we shall have occasion to ask, why did the Proprietors attempt to secure title by purchase from them?

of Indians was a matter merely of expediency, and not of moral wrong under the political tenets of the age. And so it was that now Governor West was to be removed because of the displeasure of the Proprietors at the selling of Indian slaves purchased by the planters from the neighboring Indian tribes. This trade the Proprietors regarded as one of the perquisites of their grant and were very jealous of any interference with it by the colonists. Indian slaves were shipped and sold to the West Indies, and African slaves were bought there and brought in return to Carolina.

Wilson, for the Proprietors, offered to those who would go out to the province,—to each master or mistress of a family, 50 acres; to every able son or man-servant they should carry 50 acres more, and the like to each marriageable daughter or woman-servant; and for each child, man or woman servant under sixteen years of age, 40 acres; to each servant when his time of service was out, 50 acres. This land was to be to them and their heirs forever, with the reservation of a penny an acre *quit-rent* to the Lords Proprietors. To those who preferred not to be encumbered with paying a rent, and also to secure to themselves tracts of land without being forced to bring servants to put upon them, the Proprietors offered to sell at the rate of £50 per 1000 acres, reserving a peppercorn per annum rent when demanded. This was certainly not very cheap if we assume that the pound at that time was equal in value to four at the present; for the price of those wild lands would have been equal to about one dollar an acre of the present currency, a price at which large tracts of the same can be purchased to-day.



## CHAPTER IX

1682-85

THE immigration to Carolina had hitherto been that simply of adventurers uninfluenced by any religious or political motives. Governor Sayle, it is true, was a Puritan, but it was not on that account that he had been made Governor; it was rather because of his availability to Yeamans when he determined not to come himself. So, too, West was a man of piety, but not on that account had he been appointed, but only because that he was "the fittest man for the trust" the Proprietors could find when Sir John again failed them. The breaking out of the Popish Terror in England in 1678, and the religious excitement which ensued, in view of the succession of James to the throne in case of his brother's death, in which commotion Shaftesbury, one of the Proprietors, was much involved, now caused an emigration from England to Carolina of a class generally superior in character and morals to any that had yet come, excepting only the Barbadian planters and the French Protestants who had come out with Grinard and Petit.

The Proprietors, on the 10th of May, 1682, announced that they had been prevailed upon at the request of several eminent persons who had a mind to become settlers in the province to review their Fundamental Constitutions and to make some additions and alterations thereto. The first two of these changes related only to the matter of

precedence between themselves, and were of no concern to the colonists. The third was the very small concession that the Grand Council "W<sup>h</sup> is the Senate of Carolina," they said, were allowed to propose to the Parliament such things as they might upon mature consideration think fitting for the good of the people, without first submitting the same to the negative of the Palatine Court in England. The fourth then went a small step further and provided that in case the Grand Council should forget their duty, and not take sufficient care to remedy inconveniences by proposing fitting laws to be passed by Parliament, the grand jury of the county might present anything necessary to be passed into law; and if the Grand Council did not then in convenient time propose it to the Parliament, that it might be acted upon without their consent. The only other considerable alteration was that made in compliance with the desire of several eminent wealthy men, who proposed to become settlers in Carolina, and of some who were already there, who were unwilling to be encumbered with the payment of rent for their lands; for these the Proprietors agreed that rent might be remitted by special instruments under their hands and seals.

These modifications were made to meet the views of influential nonconformists, who were turning their eyes to the new country, in apprehension of persecution at home. In a letter accompanying these modifications their Lordships disavowed power thereafter to alter anything in the Fundamental Constitutions without the people's consent, but at the same time ordered that no person should be chosen a member of the Council or have land allotted before he subscribed submission to these laws in their amended form. The colonists, remembering the oaths that had been extorted from them to the first set, and still denying the right of the Proprietors under the charter to make

any law without the assent and approbation of the people assembled for this purpose, declined again to recognize these Constitutions even in their modified form. It was just as well that they did so, for a short time after — and that before it could have been known in England that they had refused to accept the Constitutions of May, 1682 — there came out still another set bearing date the seventeenth day of August, to which the Council and the people were again solemnly required to subscribe. No other reasons for the sudden alteration were given than that it was done at the request of certain Scots and other considerable persons. This last set was likewise rejected by the colonists.<sup>1</sup>

An order contemporaneous with the modifications of the Constitutions of the 10th of May, 1682, divided the province into three counties. Berkeley, embracing Charles Town, extended from Sewee on the north to Stono Creek on the south; beyond to the northward was Craven County, and to the southward Colleton County, all extending within land to a distance of thirty-five miles from the sea-coast. A County court was ordered to be established at Charles Town for all the inhabitants. Craven County was sparsely settled until the Huguenots occupied the banks of the Santee, so that practically there were but two counties at this period.<sup>2</sup>

Oldmixon, the author of the work entitled *The British Empire in America*, writes: —

“’Twas about this time that the Persecution rais’d by the Popish Faction and their adherents in England against the Protestant Dissenters was at the height; and no Part of the Kingdom suffer’d more by it than Somersetshire. The Author of this History liv’d at that time with Mr. Blake, brother of the famous General by that name, being educated by his Son-in-law, who taught School in Bridgewater; and remembers ’tho’ then very young, the reasons

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 421.

<sup>2</sup> *Ibid.*, 134–135.



old Mr. Blake us'd to give us for leaving England. One of which was, that the miseries they endur'd, meaning the Dissenters, then were nothing to what he foresaw would attend the Reign of a Popish successor; wherefore he resolved to remove to *Carolina*. And he had so great an interest among Persons of his principles (I mean Dissenters) that many honest substantial Persons engaged to go over with him."<sup>1</sup>

Benjamin Blake,<sup>2</sup> Daniel Axtell, and Joseph Morton,<sup>3</sup> who afterwards married Blake's daughter, were the leaders of this movement. Several other families followed the fortunes of Blake; and through the encouragement of Axtell and Morton, five hundred persons arrived in Carolina in less than a month, so that, as we have seen, the population of the colony was doubled during the period from 1680 to 1682. In reward for this great service, Morton and Axtell, with Thomas Colleton, who had been the Proprietors' agent in Barbadoes, and who had also contributed much to the increase of the colony, were made Landgraves in 1681; and Governor West was now required to give place to Joseph Morton, who was commissioned Governor on the 18th of May, 1682.<sup>4</sup> To find an excuse for his removal, the ever-ready and convenient charge was made against West, — that of dealing in Indian slaves, and opposing the Proprietors' policy in the colony. The real reason was doubtless to encourage immigration from this new and important source.

<sup>1</sup> *British Empire in Am.*, vol. I, 460; Oldmixon, *Carolina*, Carroll's *Coll.*, vol. II, 407.

<sup>2</sup> Benjamin Blake was a brother of the famous English Admiral of the Commonwealth. The family were of Bridgewater in Somersetshire.

<sup>3</sup> The Mortons were an ancient English family. Prominent among the members of it who came to America, besides Joseph Morton, were Thomas Morton, one of the most interesting historical characters of early New England; Rev. Charles Morton, Vice President of Harvard and author of a number of treatises; George Morton, the ancestor of Vice President Levi P. Morton. *Morton Memoranda* (Leach), 1894.

<sup>4</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 106.

A still more important movement was inaugurated about the same time, which was destined, however, to end disastrously. On the 21st of November, 1682, the Lords Proprietors inform Governor Morton that they had entered into an agreement with Sir John Cockram of Ochiltree and Sir George Campbell, in behalf of themselves and other Scots, for the settlement of a county in Carolina. This new colony was conducted to Carolina by Henry Lord Cardross. His Lordship was descended from the Lords Erskine and the Earls of Mar, and Lady Cardross was the daughter of Sir James Stuart. Lord Cardross had been in many ways a sufferer for resistance to oppression, and determined to seek freedom of conscience in America. Nor was he alone in this. A company of noblemen entered into bonds with each other for making a settlement in the province. The subscribers were thirty-six in number. Among them were some who bore the names of Callender, Cardross, Yester, Hume of Polwart, Cockburn, Douglass, Lockhart, Gilman, etc. They had obtained from the Proprietors the grant of a county consisting of thirty plats of 12,000 acres each in the neighborhood of Port Royal, the title for which the Proprietors undertook to secure by treaty and purchase from the Indians; and for this purpose the Proprietors authorized Governor Morton and Maurice Mathews to receive and take possession of all lands sold by the Indians. The Scots selected Port Royal on account of the fame of its harbor and the excellence of its situation, which had been so greatly extolled; and doubtless supposing that as the titles to the lands were to be obtained by purchase from the Indians, no danger was to be apprehended from that source. Unfortunately, they did not take into consideration the proximity of the location to the Spaniards at St. Augustine.

This colony was to be independent of that at Charles Town, and Cardross understood himself to have coördinate jurisdiction with the Governor there. He landed in 1683, and founded Stuart's Town, probably so called in honor of the family of Lady Cardross. Rivers states that Lord Cardross was accompanied by about ten families, among whose names were those of Hamilton, Montgomerie, and Dunlop; but Howe quotes Wodrow, a most exact historian, to the effect that there were many others.<sup>1</sup> It had, indeed, been expected that some 10,000 emigrants would have been obtained from Scotland to this colony, for the persecution consequent upon the rising in the West country was then raging fearfully; and, while many were fleeing before it in anticipation, many others were involuntarily banished and sent to America, condemned to servitude.

As an instance of the cruelty with which these unfortunate people were treated, and illustrating the general insecurity of life and liberty, of the times, Dr. Howe relates the following incidents: A considerable number of Scotch rebels were sentenced to transportation in a ship belonging to William Gibson, a merchant in Glasgow, and commanded by his brother, Captain James Gibson. On the voyage these poor people were disturbed when at worship, and the hatches closed upon them whenever they began to sing. They were stinted in their food, and water was unnecessarily denied them. One is supposed to have died from thirst. The sick were not cared for. One of the voluntary exiles, failing to pay all of his passage-money, was forced into the country as a servant. Two, attempting to escape, were barbarously used, beaten eight times a day, and, it

<sup>1</sup> *Hist. Sketches* (Rivers), 142; *Hist. Presb. Ch.*, 80; Wodrow's *Hist. of the Sufferings of the Church of Scotland*.



is said, condemned to perpetual servitude, but to whom and in what way is not stated. Captain Gibson did not restrict himself to the prisoners delivered to him. He seized one Elizabeth Lining, who had gone aboard the vessel when lying in the Clyde, to visit the prisoners, and brought her off in captivity. She was set at liberty as a free woman by the Grand Council at Charles Town, on the 17th of October, 1684, upon her petition; but we are not told that she was restored to her native land. Most of these prisoners died in Carolina.

Governor Morton's administration was but of short duration. He was a man of a sober and religious temper of mind, with some share of wisdom; and from his family alliance it was hoped that the hands of the government would be strengthened; but his instructions from England were so opposed to the views and interests of the people as greatly to hamper him in the execution of the duties of his office. His Council was composed of John Boone, Maurice Mathews, John Godfrey, Andrew Percival, Arthur Middleton, and James Moore. Some of these differed widely from him in opinion with respect to public measures, and claimed greater indulgences for the people than he had authority to grant. This strengthened the differences between the two parties already forming in the colony,—one in support of the prerogative and authority of the Proprietors, the other in defence of the liberties of the people; the one party relying upon the Fundamental Constitutions and the Governor's instructions, and the other resting their rights under the Royal charter. A singular illustration of the potent influence of individual interest over political theories and principles was here presented. We find West, a dissenter, and Morton, who had just left his own country for religious freedom and political liberty, Roundhead commoners, both accepting the

bauble title of Landgrave, and upholding the arbitrary prerogative of the Proprietors, while the churchmen from England and Barbadoes were, for the present, insisting upon the chartered rights of the people under the Royal grants.

The election for the twenty members of Parliament had hitherto been held at Charles Town, the centre of the small population, but now that the people were increasing, and in a measure spreading themselves, and that the new counties had been laid out, the Proprietors, doubtless influenced by Morton and his party, who had settled on the Edisto, directed that Berkeley and Colleton counties should be equally represented by the election from each of ten members; and that the two elections should be held on the same day, respectively, at Charles Town and at London (afterwards called Wilton) in Colleton. It is not known whether Governor Morton had received these instructions at the time he convened a Parliament in September, 1683. On the 3d of that month the Proprietors wrote to him reiterating their instructions, and adding that, as they were uncertain that their orders had arrived in time, they directed that if the Parliament had been chosen by election only in Charles Town, that it be dissolved and a new Parliament called, to be chosen as then directed.

There is a passage in this letter which indicates that the voting in Carolina even before this early day had been by ballot. The Proprietors wrote: —

“We are informed that there are many undue practices in the choice of members of parliament, *and that men are admitted to bring papers for others, and to put in their votes for them* which is utterly illegal and contrary to the custom of parliament, and will in time, if suffered, be very mischievous. You are therefore to take care that such practices be not suffered for the future; *but every man must deliver his own vote and no man be suffered to bring the vote of another,*” etc.<sup>1</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 135; Appendix, 407.

It is certain that voting "by ballot or scrutiny" was expressly directed by their Lordships' instructions of September 10, 1685.<sup>1</sup>

It was certainly a great advance for the convenience of the people to have elections held in two places instead of one. But it was a most arbitrary and unjust provision that the new Colleton County, with its sparse population, settled but recently by the new-comers from England under Blake, Morton, and Axtell, should have equal representation with Berkeley, in which far the greater part of the people were established. Such a deviation could be regarded only as a design to govern the old settlers by the new. It was also another violation of the principle

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 115.

The recklessness of assertion by writers in regard to Southern history is strikingly exhibited in a recent work entitled, *The Puritan in Holland, England, and America* (1892). The author having traced to his satisfaction the origin of the use of the ballot in the North to the organization of Salem Church in 1629, in which it was adopted, as he holds, from Holland, proceeds boldly to assert:—

"Here then we see the written ballot introduced into the early colonies where the Netherland influence can be directly traced and into them alone. Like the free school and the township it was unknown South of Pennsylvania, as it was in the mother country. How it finally worked into the first constitutions of a majority of the original thirteen States, and how it has thence spread over the whole Union, Virginia and Kentucky bringing up the rear in 1864 and 1891, has already been shown." — Vol. II, 438-440.

There never has been an election in South Carolina except by ballot, as far as is known. In Great Britain the ballot was suggested for use in Parliament by a political tract of the time of Charles II. It was actually used by the Scots Parliament in 1662. These were the sources from which it was taken in this colony. Locke, who prescribed it in the Fundamental Constitutions for elections in the Parliament and Grand Council, was doubtless much more familiar with these precedents and those of ancient Rome than with the action of the Salem congregation. It will appear later on that the assertion in regard to free schools, so far as South Carolina is concerned, is as untrue as that in regard to the ballot.



for which the colonists were contending, *i.e.* that under the charter no law could be passed without their assent. If the Proprietors could alter the election precincts at will, and designate the apportionment of members of Parliament in the precincts, there was an end of all influence and control of the people in the government. Whether the instructions had arrived before the election of the Parliament called by Morton or not, they were disregarded, and the elections had been held at Charles Town as usual.

Governor Morton dissolved the Parliament upon the receipt of the letter of the 30th of September peremptorily ordering him so to do,—but not before numerous acts had been passed by it. The Proprietors were as much offended by the character of the laws passed by this body as by the election in violation of their orders. They now viewed with abhorrence the adoption of a law for protecting the colonists against prosecution for debts contracted out of the colony as impeding the course of justice, as against the King's honor, and repugnant to the law of England, forgetting that in their anxiety to encourage immigration they had sanctioned a similar law in 1670. They ordered “that all officers should be displaced who had promoted it.” The Governor and Council were further blamed for slighting their instructions concerning the election. The Proprietors claimed to have power by their charter to call assemblies of the freeholders; that their Fundamental Constitutions appointed how this should be done, and that their orders stood in the place of the Constitutions until they could be put in force. But this haughty strain, observes Rivers, did not quell the spirit of opposition, and their Lordships further showed how little they understood those under their government, when, vexed at their failure, they wrote to Governor Morton in the follow-

ing March, "Are you to govern the people, or the people you?"<sup>1</sup>

Unfortunately for the plans of the Proprietors, continues the same author, their Governors and deputies were, for the most part, necessarily selected from the colonists themselves, whose dispositions and principles they could not be sure were in accordance with their own. Did they instruct Morton to remove all officers who sold or encouraged the selling of Indian slaves? The Governor himself was not free from blame. Their own deputies fell under the blow as well as the commoners of the Grand Council; and these the people thought fit to elect again. Did they inveigh against any indulgence to the English pirates who visited the coast? The people were not disposed to hang them while their monarch encouraged, with unusual honors, the chief captain of the band. Did the Proprietors demand their quit-rents in money? The people said there was no mint in Carolina and coin was scarce. Did they refer to the powers granted by the charter? The people were willing to be governed by the charter which made their concurrence necessary for the adoption of any plan of government.<sup>2</sup>

The Proprietors, thus foiled by their own agents, thought that possibly a Governor from abroad would be more subservient to their interests, so Morton was removed and Sir Richard Kyrle of Ireland was appointed in his place in April, 1684. To fit him for the position, Kyrle was, of course, appointed a Landgrave. The Proprietors expressed to him their hope that from his abilities and activity the affairs of Carolina would be in a better condition than before; they pointed out the evils they wished him to remedy, cautioned him against the Spaniards, and advised him to put the province in a state of defence. But Sir

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 135, 137.

<sup>2</sup> *Ibid.*, 137, 138.

Richard did not live to carry out his instructions. He died within six months after his arrival in the country.<sup>1</sup>

Upon the death of Kyrle, the Council, who under the instructions were charged in such event to choose a person to act until the Proprietors' pleasure should be known, again turned to West and chose him as Governor; but it happened that he was not at that time in the province. In their instructions to Kyrle the Proprietors had recommended that in case of his absence he should commission Robert Quarry, the Secretary of the province, as Governor of Charles Town; acting upon this intimation of their Lordships' opinion of Quarry, in the absence of West the Council chose him as Governor. But it was, indeed, difficult to please their Lordships. They disapproved the selection. Forgetting, apparently, that they had denied Yeamans's right to be Governor because he was a Landgrave, they now wrote to the Council that they should have chosen Landgrave Morton, whom they, the Proprietors, had just removed to make way for Kyrle, "to whom," they said, in the absence of Landgrave West, "by virtue of our Fundamental constitutions and instructions the government of right belonged," — a rule we shall soon see them disregarding when it conflicted with their purposes. Beyond the expression of their disapproval, the Proprietors did not, however, interfere. Colonel Quarry was a man of character, and subsequently occupied other high positions in colonial affairs. He succeeded Edward Randolph as Surveyor General of his Majesty's customs in America, was Vice Admiral of Carolina<sup>2</sup> in 1700, and afterwards became Judge of Admiralty of New York and Pennsylvania. His short *ad interim* administration was not a fortunate one — responsible as it was, in part, for the ill-

<sup>1</sup> Hewatt, vol. I, 92; *Hist. Sketches of So. Ca.* (Rivers), 138.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 265.



treatment of the unhappy Scotch colony under Lord Cardross. But the justice of the accusation for complicity with the pirates, for which it has been most known in history, is at least not free from doubt.

On the 1st of September, 1684, an armed vessel came into the Ashley, which pretended to have been trading with Spaniards, and Quarry reported to the Proprietors that he had prohibited the landing or selling of any of its goods, as he had received information that it was a piratical vessel. This statement, it was afterwards charged to the Proprietors, was false; that in fact, although Quarry knew the vessel to be piratical, he had allowed the plundered goods to be landed and sold. Quarry had in the meanwhile displeased the Proprietors in other matters, particularly by his treatment of Lord Cardross. On the 15th of February, 1685-86, they ordered an inquiry as to his conduct, declaring that the truth of the charge must be proved or Quarry's reputation vindicated.<sup>1</sup> Two months after, April 26, complaining of his conduct to Lord Cardross, they threatened that he should be suspended from his office as Secretary if he persisted in his "refractioness."<sup>2</sup> Six years later, May 13, 1691, they allude to "Mr. Quarry who had been dismissed by them from the Secretaryship for harboring pirates and *other* misdemeanors."<sup>3</sup> Whether his complicity with the pirates, or "other misdemeanors" which he persisted in, was the real cause of his removal from the office of Secretary may be doubted in view of his subsequent career. However this may be, we find him in 1697 apparently in full favor again with their Lordships.<sup>4</sup> It is scarcely credible that he would have been chosen to the high position he afterwards occupied, both in regard to the King's revenue and as Judge of Admi-

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 116.

<sup>2</sup> *Ibid.*      <sup>3</sup> *Ibid.*, 127.      <sup>4</sup> *Ibid.*, 143.

ralty, had not his character been fully vindicated from the charges of harboring pirates, and of a false report to cover up his conduct.

The Proprietors at this time were, no doubt, sensitive upon this subject. Sir Thomas Lynch, the Governor of Jamaica, had shortly before complained to the Board of Trade and Plantations in England of the great damage that arose to his Majesty's service, by the harboring and encouraging of pirates in Carolina and other governments and proprietaries, where there was no law to restrain them.<sup>1</sup> Jamaica itself, it may be observed, had just been required by the Royal Government to adopt and enforce an act sent out from England for the suppression of this evil in her own waters.<sup>2</sup> Lynch's complaint did not apply to Carolina alone, though it was the only province he mentioned by name; nor does he mention the colony at Charles Town. His complaints are general, and may probably have been grounded upon the visits of pirates to Cape Fear, which was their favorite resort.

When the English colonists under their charter settled Carolina, pirates had been for many years occupying the coast at their pleasure. Indented as it was by numerous harbors and inlets, it afforded them a safe refuge when pursued by their enemies, and most available places for refitting and repairing after a cruise. Here they could bring their prizes; and if ancient tradition be true, here they buried their treasures. The coast country was a wilderness, inhabited only by scattered tribes of Indians; and once within the headlands of the spacious harbor, they were protected from interference and could plot their nefarious schemes at their leisure.<sup>3</sup>

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 347.

<sup>2</sup> Bryan Edwards's *Hist. West Indies*, vol. I, 292.

<sup>3</sup> *The Carolina Pirate* (Hughson); *Johns Hopkins Univ. Studies*, 12th Series, V, VI, VII, 12.

Charles II had, upon his restoration, openly encouraged these public robbers, who, sometimes under the designation of privateers, had devastated and plundered the Spanish dominions. The business was esteemed just and laudable as long as it suited the Royal interest, and was treated as an honorable mode of warfare. From mere whim his Majesty had knighted Henry Morgan, a Welshman who had plundered Porto Bello and Panama. He not only knighted this buccaneer, but had made him Deputy Governor of the Island of Jamaica, the present Governor of which was now complaining of pirates. This body of plunderers was so formidable, indeed, as to strike terror into every quarter of the Spanish dominion. When peace was declared between England and Spain, many of these so-called privateers naturally developed into avowed pirates, and cared no more for England than Spain. But at first there was doubtless a ground of legitimate sympathy between the colonists in Carolina and these wild rovers. Hitherto their warfare — conducted under genuine or pretended commissions as privateers — had been principally, if not altogether, against the commerce and colonies of Spain. The Spaniards in Florida, though their government in Europe was actually in a treaty of peace with Great Britain, disregarded its obligations, and pursued the colonists of Carolina as their enemies. Were the feeble colonists in Carolina, having the Spaniards and Indians already to contend with, to incur the enmity and invite the hostility of these buccaneers that the European powers were unable or unwilling to suppress? Were the Carolina colonists to be pillaged by the Spaniards at St. Augustine, and on their part to regard and treat these people, whether privateers or pirates, as enemies because they in turn preyed upon the Spaniards?

But however natural, and in some sort legitimate, was



the sympathy of the Carolina colonists with the enemies of the Spaniards — whoever they might be ; however unjust it was to expect the weak colonists on the Ashley to enter into conflict with them, — there does not appear after all that there was any sufficient ground for the charge that the Carolinians were, in fact, aiding and abetting the pirates. Nor did the Proprietors quietly submit under the charge that their colony was to be blamed in the matter. Craven, the Palatine, met the accusation promptly and with spirit. On the 27th of May, 1684, he wrote to the Board of Trade that upon inquiry he had been informed that one Jacob Hall did touch at Carolina for wood and water as he came from Vera Cruz, but belonged not to Carolina, nor was any inhabitant of the province with him. He had stayed but a few days and then sailed for Virginia. Hall, continued the Earl, acted under Van Horn, who had a commission from the French, and his Majesty's pleasure not to suffer his subjects to take commissions from foreign princes not being known in Carolina was the reason, he conceived, why the privateer had not been secured. The Earl went on to say that he could not hear but of one more that ever was in Carolina, and that that one, not pretending any commission from any foreign prince, and having taken some vessels, was indicted, found guilty, and executed. The captain, with two other of the most guilty of the company, had been hung in chains at the entrance of the port, and their bones hung there to that day, an example to others. Furthermore, Lord Craven plainly intimated that Sir Thomas Lynch, who was now so virtuously calling attention to the harboring of pirates by others, was not himself free from implication with their business. Nevertheless, Lord Craven informs the Board of Trade that the Proprietors had sent directions to Carolina to pass an act like that of Jamaica for the suppression of the evil.<sup>1</sup>

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 348.

On the 11th of March, 1684-85, the Proprietors again issued a commission to Joseph West as Governor, but it was not until September of that year that he resumed the office he had resigned to Morton two years before.<sup>1</sup> In the meanwhile the difficulties of political affairs had greatly increased. The apportionment of the members of Parliament was still warmly opposed by the inhabitants of Berkeley County, whose able leaders were displaced from the Council upon the same pretexts that West had been, two years before, removed from the governorship; viz. upon the charge of sending away Indian slaves. Another difficult question with which Governor West had now to contend was that in regard to the tenure of land. In the first Fundamental Constitutions and in the Agrarian Laws the Proprietors had declared that lands should be held for the rent of a penny an acre, "or the value thereof," upon which terms and inducements many persons had emigrated to Carolina. But now it was declared that lands should be held only by indentures, in which the words "or the value thereof" were to be stricken out and a reservation added of reëntury on failure of paying the quit-rent in money. To the opposition excited against this clear violation of the contract upon which the colonists had come out, and the reasonable request that, as money was scarce, the rents might be paid in merchantable produce of the land, the Proprietors only replied, "We insist to sell our lands our own way." Then their Lordships recurred again to the old subject of the Fundamental Constitutions. On the 12th of March, 1684, the day after they issued his commission, they wrote to Governor West instructions containing thirty-eight articles, which repealed all former instructions and temporary laws, and ordered the third set of Fundamental Constitutions

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 113.

(i.e. of January, 1682) to be subscribed and put in practice. The members of the Grand Council, who represented the people, protested against this measure, which sought with so decisive a step to change the government of the colony.<sup>1</sup>

Governor West contended with these difficulties for a year without success, when, hampered by his instructions, and finding it impossible to reconcile the growing differences between the Proprietors and the colonists, utterly disheartened he gave up, and, it is said, abandoned the province. Nothing is known of his subsequent career.<sup>2</sup> Oldmixon, who wrote in 1708, mentions "Mr. Landgrave West's plantation," which implies that he was still living and owned the place; but whether alive or residing in the province is not more definitely stated.<sup>3</sup> West had thus acted three times as Governor, on each occasion being the choice of the people, and twice under commission from the Proprietors. He was for a longer time Governor than any other under the Proprietors. In a government, says Rivers, carefully planned to be an aristocracy, and under the fostering direction of distinguished nobility in England, he, a plebeian, faithful, wise, and modest, became for fifteen years the guiding spirit of all that was good and successful.<sup>4</sup>

But wise and good as he was, twice he was put aside by the Proprietors to suit their pride or their interest — once for Sir John Yeamans, not because of any fault of his, but because Sir John was a Landgrave, and the Proprietors could not as yet bring themselves to raise their humble,

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 139, 140; *Coll. Hist. Soc. of So. Ca.*, vol. I, 114.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 141.

<sup>3</sup> *British Empire in Am.*, vol. I, 513; Carroll's *Coll.*, vol. II, 452.

<sup>4</sup> *Hist. Sketches of So. Ca.* (Rivers), 141.



faithful servant to that dignity. The next time he was made to give way to a new-comer of wealth and influence.

It was during his administration, February 16, 1684-85, that the Proprietors announced the death of King Charles II and the accession of his brother James, and instructed him to proclaim the new King at Charles Town and London,<sup>1</sup> which was accordingly done.

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 113.

## CHAPTER X

1685-92

ON the retirement of West, the Council chose Morton as Governor; the Proprietors confirmed their choice and in September, 1685, sent him their commission. Governor Morton's second administration was still shorter than his first, but it is memorable for three important events: (1) The refusal of the representatives of the people to subscribe the Fundamental Constitutions; and their consequent expulsion from Parliament. (2) The establishment in Carolina of a revenue officer under his Majesty to enforce the customs and the navigation laws; and the opposition of the people to his demands. (3) An invasion by the Spaniards, and the destruction of Lord Cardross's colony at Port Royal.

The Parliament which convened in November, 1685, consisted of eight deputies of the Lords Proprietors and twenty commoners, of whom one was absent. The deputies were Joseph Morton, Robert Quarry, John Godfrey, Paul Grimbail, Stephen Bull, Joseph Morton, Jr., John Farr, and William Dunlop. Governor Morton, in obedience to the instructions sent to Governor West, called on the members to subscribe the Fundamental Constitutions of 1682. Twelve of the nineteen refused to do so, because, as they said, they had already subscribed to those of July, 1669. The Governor thereupon ordered them to quit the house. They protested, without avail,

against the tyranny of their ejection. The remaining seven enacted all the laws passed at that session of Parliament.<sup>1</sup> These were, however, but four in number: (1) The act which had been sent out for restraining and punishing privateers. (2) An act for the better security of the province against hostile invasions and attempts by sea or land, which the neighboring Spaniards or other enemy might make upon the same. (3) An act for reviving several acts theretofore made which had expired. (4) An act fixing the fees chargeable to the register of births, marriages, and burials.<sup>2</sup>

In 1685 George Muschamp arrived at Charles Town as the first Collector of the King's revenue, and the Governor and Council were instructed "not to fail to show their forwardness in assisting in the collection of the duty on tobacco transported to other colonies; or seizing ships that presumed to trade contrary to the acts of navigation."<sup>3</sup> Muschamp's arrival introduced into Carolina a subject which had already been the cause of great animosity and contention in other colonies, especially in Barbadoes, — a grievance which was really the cause of the great revolution of near a hundred years after.

The Navigation act, which was the basis of England's commercial prosperity, had originated in no enlarged view of statesmanship. Its rudiments were laid by the Long Parliament with the narrow view of crippling the West India sugar colonies which held out for the Royal cause, by stopping the gainful trade which they then carried on with the Dutch, and at the same time clipping the wings of those opulent and aspiring neighbors. The act prohibited all ships of foreign nations from trading with any English

<sup>1</sup> *Hist. Sketches* (Rivers), 141, 142.

<sup>2</sup> *Statutes of So. Ca.*, vol. II, 7-14.

<sup>3</sup> Chalmers's *Pol. Ann.*; Carroll's *Coll.*, 322.



plantations without license from the Council of State. In 1651 the prohibition was extended also to the mother country, and no goods were suffered to be imported into England or any of its dependencies in any other than English bottoms, or in the ships of that European nation, of which the merchandise imported was the genuine growth or manufacture.<sup>1</sup>

The Barbadians vigorously protested against this measure, which was aimed chiefly at their trade with the Netherlands. A spirited declaration was drawn up and subscribed by Lord Willoughby, the members of his Council, and the assembly of Barbadoes, stating their objections and expressing their firm resolution of opposing the act of Parliament to the utmost extent of their power. It is most interesting to observe that in their admirable address, the Barbadians, more than a hundred years before, anticipated the fundamental ground of the American Revolution by the bold declaration, — “*they totally disclaimed the authority of the British Parliament in which they were not represented.*” To submit to such a jurisdiction, they asserted, would be a species of slavery far exceeding anything which the nation had yet suffered, and they affected not to doubt — they declared — that the courage which had enabled them to sustain the hardships and dangers which they had encountered in a region remote from their native clime, would continue to support them in the maintenance of that freedom without which life itself would be uncomfortable and of little value.<sup>2</sup> Brave words, which were sustained by an equally brave resistance! But Barbadoes was reduced by the parliamentary forces, and the act imposed upon them. The Barbadians looked with confidence that, upon the Restora-

<sup>1</sup> Blackstone's *Com.*, vol. I, 418.

<sup>2</sup> Poyer's *Hist. of Barbadoes*, 53-55.

tion, this act would have been set aside, but the benefits resulting to England from a system which accident and resentment, rather than any ideas of true policy, had suggested to Cromwell, soon put an end to any such hopes.<sup>1</sup> The only material alteration made was to increase its rigor. By Statute 12 Car. II, c. 18, it was in addition prescribed that the master and three-fourths of the mariners of every vessel importing goods into England or into any of its dependencies should also be English subjects.<sup>2</sup> It was this law which Muschamp had now come to enforce upon this colony.

The Carolina colonists, following the line of their first strict constructionist, "Will Owen," who no longer, however, appears in their Councils, took the position that their charter having been granted subsequently to the passing of the Navigation act, superseded that law in this province.<sup>3</sup> Their resistance to the act, we may be sure, did not, however, rest solely upon this ingenious view. If it had not been suggested, the colonists would doubtless have done just as they did without this excuse. They disregarded Mr. Muschamp, and traded as they pleased. The point raised by the colonists seems, however, to have given the government at home some concern. This reception of the King's officer by the colonists was at this time well calculated to give great anxiety to the Lords Proprietors, for James II wanted but an excuse to revoke their charter. He had, indeed, already determined to suppress all the Proprietary governments; had instructed the Attorney General to proceed by *quo warranto* against them; and proceedings were actually pending at

<sup>1</sup> Poyer's *Hist. of Barbadoes*, 77.

<sup>2</sup> Blackstone's *Com.*, vol. I, 419.

<sup>3</sup> Chalmers's *Pol. Ann.*; Carroll's *Coll.*, 322; *Hist. Sketches* (Rivers), 148.

this time which resulted in the overthrow of the charter governments of New England. The Proprietors of Carolina, however, bent to the storm, and it passed over them for the time.<sup>1</sup>

The misfortunes of the Scotch exiles did not end upon their arrival in Carolina. It might have been supposed that the colony at Charles Town would have hailed with joy the establishment of another at Port Royal, if for no other than the selfish reason of the protection which such a colony would have interposed between them and the hostile Spaniards at St. Augustine. But, on the contrary, they received the Scotch exiles with little favor. Jealousies soon arose with regard to the political power of the new settlement. Lord Cardross claimed from his agreement with the Proprietors coördinate authority with the Governors and Grand Council at Charles Town. This was resented, and Morton and his Council continuing to exercise jurisdiction over persons within the territory given to Lord Cardross, his Lordship with Hamilton, Montgomerie, and Dunlop joined in a communication, which was taken by Dunlop in person to the Governor and Council at Charles Town; in which they with dignity and forbearance expostulated against this conduct, reminding them that both communities were under the same King and the same Lords Proprietors; that it was against the interest of either to allow jealousies, especially at a time when they had ground to apprehend a Spanish invasion. Dunlop would inform them — they wrote — of the “sinistrous dealings” of two noted Indians, *Wina* and *Antonio*, who were instigating the Indians around to hostilities among themselves, and against their settlement, and were entertaining a spy from St. Augustine or St. Mary’s. They requested the

<sup>1</sup> Chalmers’s *Pol. Ann.* ; Carroll’s *Coll.*, 323 ; *Hist. Sketches of So. Ca.* (Rivers), 149 ; *Colonial Records of No. Ca.*, vol. I, 352, 353.



Governor and Council at Charles Town to deliver to Dunlop six guns the Lords Proprietors had promised them. These overtures met with a rude repulse; the Grand Council persisted in their complaints — they even went further and summoned Lord Cardross before them, as if to answer for some high misdemeanor; and when he did not come, they affected to treat his failure to appear as a contempt, though his Lordship, overcome by the heat of a climate to which he was not accustomed, lay at Port Royal prostrate with fever.<sup>1</sup> Another instance is here presented of the ill-judgment and impracticability of all the Proprietors' schemes. Two jurisdictions were set up without a clear line of demarcation between them, and with doubtful and conflicting powers. Lord Cardross, disgusted with his arrest and ill-usage, abandoned the struggle and, fortunately for himself, retired before the blow fell upon the colony, of which his associates and himself had in vain warned the Governor and Council at Charles Town. He returned to Scotland and took an active part in the political revolution which was then at hand.<sup>2</sup>

The two Dunlops, William and Alexander, who came out with Lord Cardross, were both men of influence, and became of considerable temporary consequence in the colony. William, who bore the communication to the Governor and Council, did not get the guns for which he applied; but on the 18th of November the Proprietors wrote that they had appointed Alexander Dunlop sheriff of Port Royal, and directed the guns to be delivered to him or to Lord Cardross.<sup>3</sup> They at the same time recom-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 142, 143; Appendix, 407-409; Howe's *Hist. Presb. Ch.*, 84, 85.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 140; Oldmixon, Carroll's *Coll.*, 411.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 116.

mend William Dunlop to the consideration of the Governor and Council at Charles Town, and on the 23d of that month he appears as a deputy among them.<sup>1</sup> It is probable that it was through his influence the act was passed attempting to provide for the better security of the province against Spanish invasion. But, beside the passing of the acts which recognized a state of war as actually existing between the Spaniards and the Carolinians, nothing was done to meet the threatened emergency.

Lord Cardross had warned Governor Morton and his Council of the threatened invasion, but in vain. They would not even send him the dismounted and useless guns lying at old Charles Town, which had been promised by the Proprietors, until ordered to do so by their Lordships in November, 1685. The Scotch colony at Port Royal was utterly destroyed in consequence, but it did not suffer alone. The Governor himself was made to feel the blow.

In the summer of 1686 the Spaniards appeared.<sup>2</sup> They came suddenly with three galleys,—a hundred white men, with an auxiliary force of Indians and negroes,—and landed on the Edisto. They sacked the houses of Governor Morton and of Mr. Grimbball, the Secretary of

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 9. After remaining in the colony for some years and taking an active part in its affairs, William Dunlop returned to Scotland in 1690, and became principal of the University of Glasgow. Howe's *Hist. Presb. Ch.*, 117.

<sup>2</sup> The exact date of the appearance of the Spaniards is nowhere given. Chalmers states that it was "towards the end of the year 1686." But it certainly took place before October, for the Parliament was assembled, and passed an act in consequence of it, on the 15th of October. It was certainly later than March, as Edward Randolph refers to it as happening in 1686, by the old style the year beginning in March. The calling of the Parliament, the appeal to the Lords Proprietors, etc., which took place, would indicate that it must have been some time before October.

the province, who were at Charles Town, and pillaged them to the value of £3000 sterling, carrying off money, plate, and thirteen slaves of the Governor, and murdering his brother-in-law. They then turned upon the Scotch settlers at Port Royal, but twenty-five of whom were in sufficient health to oppose them. The Spaniards killed some, took others captive, whom they whipped in a barbarous manner, and plundered and utterly destroyed the settlement. The few who remained of this unfortunate company found refuge in Charles Town.<sup>1</sup>

Party strife was now forgotten in the excitement. An appeal was made to the Lords Proprietors, and in the memorial sent they were prayed to represent the matter to his Majesty.<sup>2</sup> But the Carolina colonists did not wait for an answer to this appeal, which could not reach them for months. They determined to take the matter into their own hands, and to give the Spaniards a lesson which would deter them from any repetition of insult and invasion. Unable to defend the wide extent of their territory at all points, they determined that the best measure of defence was boldly to strike at the heart of the enemy. The Governor and Council countenancing the scheme, a Parliament was summoned, and on the 15th of October an act passed for the immediate invasion of the Spanish territory. An assessment of £500, equivalent probably to about \$10,000, was made, and Joseph Pendarvis and William Popell were appointed Receivers of the moneys raised. All the powers of the Grand Council were vested for the time in the Governor and any four of the Council. Preparations were all completed. Two vessels were fitted out, and four hundred men were ready to sail for the conquest of St. Augustine, when the ex-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 143, 144 ; Appendix, 425, 443.

<sup>2</sup> *Ibid.*



pedition was suddenly stopped by the arrival from Barbadoes of James Colleton, brother of the Proprietor, who had been created a Landgrave, and brought with him a commission as Governor of Carolina. He threatened to hang any of the colonists who persisted in their project, and they reluctantly abandoned it.<sup>1</sup> This was the unfortunate beginning of a weak and disastrous rule.

James Colleton was one of the distinguished family of Colletons from Barbadoes. Like his father, Sir John, and his brother, Sir Peter, he had occupied a prominent position there, and had been a member of the Assembly of that island from the parish of St. John's. To his dignity of Landgrave, 48,000 acres of land were inalienably annexed under the Constitutions. In an old map of 1715 Colleton's baronies are put down as covering most of what is still known as St. John's Parish, Berkeley,<sup>2</sup> and we may safely assume that in laying out and naming the parishes in 1706, that parish, as well as the parish of St. John's, Colleton, received their names from the old home of the family in Barbadoes. Unfortunately, James Colleton possessed neither the address nor abilities of the other members of his family. His career in Carolina began most unhappily. His conduct from the outset aroused the deepest resentment of the colonists.

The Proprietors, threatened at this time with the *quo warranto* proceedings and the forfeiture of their charter, — subservient to the Royal humor, which was now intent upon preserving a nominal peace with Spain, — promptly approved the action of the new Governor. While the colonists were burning with indignation at so unexpected and unworthy a termination of their efforts, the Lords Proprietors wrote to Colleton: "We are glad that you

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 144; *Statutes of So. Ca.*, vol. II, 15.

<sup>2</sup> *Year Book City of Charleston* (Courtenay), 1886.

have stopped the expedition against St. Augustine. If it had proceeded, Mr. Morton, Colonel Godfrey, and others might have answered it with their lives.”<sup>1</sup> They proceed meanly to justify the raid of the Spaniards upon the ground that the colonists had harbored pirates who were warring on them, and to argue “that every rational man must have foreseen that the Spaniards thus provoked” (*i.e.* by the harboring of pirates) would assuredly retaliate; that the clause in the patent (*i.e.* the Royal charter) that had been relied on to justify the measure “meant only a pursuit in heat of victory, but not a deliberate making of war on the King of Spain’s subjects within her own territories, nor do we claim any such power. No man,” they wrote, “can think that the dependencies of England can have power to make war upon the King’s allies without his knowledge or consent.”<sup>2</sup> This angry message on the part of the Proprietors, manifestly prepared rather for the political atmosphere of London than with regard to the interests of the colony in Carolina, was, to say the least, a most disingenuous statement of the case. The Proprietors had apparently forgotten that, but a short time before, the Earl of Craven had written to the Board of Trade, specifically denying that the Carolinians had ever harbored pirates.<sup>3</sup> The cause of the intense hostility of the Spaniards to the Carolinians was far deeper and more abiding. It had its origin, as we have seen, in the charters under which the Proprietors claimed. The long-threatened attack was made because the Spaniards claimed the land upon which Lord Cardross’s colony was settled, and regarded the colony as another encroachment on their territory. It is true that the Governor of St. Augustine

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 144.

<sup>2</sup> Chalmers’s *Pol. Ann.*; Carroll’s *Coll.*, vol. II, 319, 320.

<sup>3</sup> *Ante*, 206.

disowned the invasion, and declared that it was made without his orders; but it is equally true that he, at the same time, refused to give up the slaves taken by the raiders without an order from the King of Spain.<sup>1</sup> If the King of Spain could thus connive at the war made by his subjects upon the English colonists, were the colonists to remain supine and passively await their own destruction, while the Proprietors, three thousand miles away, were consulting the diplomacy of the court of St. James whether or not to permit retaliation?

But the provision in the charter upon which the colonists relied explicitly justified their conduct. The fifteenth clause recited and provided: "And because that in so remote a country and scituate among so many barbarous nations as well of savages *as other enemies* pirates and robbers may probably be feared," authority was expressly given to the Proprietors "by themselves or their captains or other officers to levy muster and train up all sorts of men of what condition so ever, or wheresoever born, whether in the said province or elsewhere, for the time being *to make war and pursue the enemy aforesaid, as well by sea as by land, yea, even without the limits of the said province* and by God's assistance to vanquish and take them and being taken, to put them to death by the law of war," etc.<sup>2</sup> There is nothing in the grant of sovereign power to the viceregal government of the Proprietors restricting it to "only a pursuit in heat of victory"; the power given was "*for the time being to make war*" and to pursue the enemies beyond the limits of the province. The plea, therefore, of the want of authority to allow the colonists to strike a manly blow in their own defence was a paltry

<sup>1</sup> Edward Randolph to Board of Trade, Appendix *Hist. Sketches of So. Ca.* (Rivers), 443, 444.

<sup>2</sup> *Statutes of So. Ca.*, vol. I, 39.



excuse to propitiate the King, whose displeasure had arisen from other causes.

The Proprietors ordered "a civil letter" to be addressed to the Governor of St. Augustine inquiring by what authority he acted.<sup>1</sup> Thus, it will be observed, they themselves regarded the attack as no mere raid of unauthorized pillagers, but an invasion sanctioned by the Spanish Government; a view which, as we have seen, was subsequently sustained by the action of the Spanish Governor in spite of his denial. In further confirmation of this, a new Governor having come to St. Augustine, he dispatched a friar to Charles Town to treat with the government here upon the subject.

And now fresh cause of offence was given by Colleton to the people, and grave suspicion aroused as to the honesty of his conduct. He refused to consult with the "commoners" in his Council, as the representatives of the people were termed, and only mentioned the Spanish messenger to them when he had to ask their consent to his maintenance out of the public treasury. Passing by "the bloody insolence the Spaniards had committed," Colleton, who could not pursue them in war, without the King's consent, now enters into a treaty of commerce with their agent, the friar. In pursuance of this agreement, the Spanish Governor sent what he considered the actual cost of the plunder which had been carried off; but would not return the captured negroes, who were actually employed in building a fort near St. Augustine. The colonists complained bitterly of the Governor's conduct. He had acted, it was said, contrary to the honor of the English nation, and for a little filthy lucre had buried in silence atrocities upon Englishmen who wanted not courage to do themselves honorable satisfaction.<sup>2</sup> They were, no doubt, all

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 145. <sup>2</sup> *Ibid.*, 145; Appendix, 425.

the more chagrined when they afterwards learned that the Spaniards, upon hearing that they were coming to avenge their wrongs, had left their town and their castle and fled into the woods to save themselves. The expedition against St. Augustine was stopped for the time. But it was only postponed. The rupture between England and Spain in a few years allowed its renewal; but without the success which would probably have been attained at this time.

This excitement had not yet abated when Mr. Muschamp, in April, 1687, seized a vessel for violating the revenue law, upon the ground that four-fifths of the crew were Scotchmen and not Englishmen — the Navigation act not permitting Scotchmen the benefit of its provisions. The evidence, upon the trial, Muschamp had to admit, was not very clear; but the colonists disdained to rest the case upon the failure of proof. The court released the vessel and distinctly intimated, it is said, that had the evidence been ever so clear, the decision would not have been otherwise, as the charter gave the colonists the right to trade with Scotland and Ireland, and that they had the right to transport their own product in ships navigated by Scotchmen. Mr. Muschamp's report was referred to Powis, the Attorney General of England, who gave it as his opinion that the trade, *i.e.* that to Scotland and Ireland, was most directly contrary to the acts of Parliament; and though the charter of the colony was subsequent to the navigation acts, there was no color for the claim that it superseded those statutes unless it was so expressly provided. Upon the point whether it was so expressly provided in the charter, he gave no opinion, but advised that the charter should be inspected, and if it should appear that the charter did exempt the colonists from its operation, he would then be prepared to give his

opinion whether an act of Parliament could be overridden by a charter.<sup>1</sup>

The Proprietors were not slow in perceiving the drift and intimation of this opinion and were prompt in disclaiming any right to exemption from the navigation laws, which, they humbly conceived, "must be the discourse of ignorant and loose people only and not of any concerned in the government." They had no doubt but that the ship seized by Mr. Muschamp would have been condemned if there had been sufficient proof. They did not know, they said, what encouragement any ships from Scotland or Ireland could have to trade at Carolina, the inhabitants having hardly overcome their want of victuals, and having nothing to export but a few skins and a little cedar, both of which did not amount yearly to £2000.<sup>2</sup>

A large majority of the representatives of the people had, as we have seen, refused their assent to the act of the Fundamental Constitutions of 1682 which Governor West had been instructed to have subscribed, and which instructions Governor Morton had attempted to enforce. The refractory commoners had been excluded from the House, and, returning to their homes, spread disaffection everywhere. The dissenters, observes Rivers, who had left England in considerable numbers, driven by their apprehension of persecution under the coming reign of James II, had at first, in changing from a worse to a better condition, naturally supported the submissive party in the colony. In particular, Joseph Blake, whose daughter Morton had married, added his influence in checking and allaying "the extravagant spirit" of the discontented. But the more extravagant spirit of the instructions sent to Carolina threw the majority of the people, however,

<sup>1</sup> Chalmers's *Pol. Ann.*; Carroll's *Coll.*, 342, 345.

<sup>2</sup> *Ibid.*



differing in their principles on some matters, into the ranks of the opposition party.

The Proprietors had hitherto been greatly disappointed in the character of their Governors, who had generally, as they considered, opposed their views or exerted themselves in too feeble a manner to promote them. Sayle had been a good man, but a weak Governor. Yeamans had proved ambitious and selfish, and inclined to make the interest of Carolina subservient to that of Barbadoes. West had been wise and prudent, but he had not had the force—if he had the will—to meet and encounter the party who were beginning to demand constitutional liberty under the charter, and to refuse to be governed except under its provisions. Then they had tried Morton, —a new man, unconnected with the early disputes in the colony, and who, for the substantial civil and religious liberty he was to enjoy, was willing to accept the forms of the Fundamental Constitutions, especially when flattered with the dignity of a Landgrave under them. The Proprietors soon, however, found that Morton's principles inclined him to their opponents rather than to themselves. But in Landgrave Colleton they reposed entire confidence, expecting much from his talents and still more from his attachments. He built himself a fine mansion at old Charles Town, received from the Parliament an ampler support than had been enjoyed by former Governors, and, secure of the good will of the Proprietors through the influence of his brother, he no doubt looked forward to prosperity and happiness in the new home to which he brought his family. The Proprietors, indeed, had never been more faithfully represented.<sup>1</sup> It might have been better for them had Colleton's devotion to their interests less blinded him to that of the province, which was, in

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 151.

fact, inseparable from their own. His instructions required him to punish the former Governor and officers for various offences, to execute the law against pirates with rigor, and to put down the faction consisting of men of various views and avowing different principles; "Sprang up as we are assured," said the Lords Proprietors, "as rampant as if the people had been made wanton by many ages of prosperity."<sup>1</sup>

The Proprietors, in their zeal to appease the Royal authorities, had sneered at the commerce of their province, and yet out of the seven acts passed during Colleton's administration before his rupture with the Parliament, five of them relate to the commerce of the place, indicating that notwithstanding all the troubles of the colony its business was steadily increasing. The acts passed were (1) "For servants hereafter arriving without indentures or contracts"; (2) "For the preventing seamen from contracting great debts"; (3) "For regulating the entryes of vessels," etc.; (4) "For the tryall of small and meane causes"; (5) "For the levying an assessment of eight hundred pounds"; (6) "To ascertain the prices of commodities of the countryes growth"; (7) "To ascertain damages upon protested bills of exchanges."<sup>2</sup>

The last of these statutes was passed on the 23d of July, 1687. There were no other enactments during Colleton's administration, nor was there any other legislation for three years. During this time fierce contests distracted the several parliaments that were held. In 1687 a committee, consisting of the Governor, Paul Grimbald and William Dunlop, deputies, Bernard Schenkingh, Thomas Smith, John Farr, and Joseph Blake, commoners, were appointed to consider whether the Fundamental Constitutions might be modified in any way to make them ac-

<sup>1</sup> Chalmers's *Pol. Ann.*, 323, 324.

<sup>2</sup> *Statutes of So. Ca.*, vol. II, 30-38.

ceptable both to the Proprietors and to the people. "The work grew voluminous," it was said, and was then abandoned amidst angry discussions; the people declined to regard any other set but that sent out with Governor Sayle in 1669.<sup>1</sup> At length Colleton, on the 14th of February, 1687-88, in some passion produced a letter from the Proprietors, dated March 3, 1686-87, in which they "utterly denied the Fundamental Constitutions of July, 1669, declaring them to be but a copy of an imperfect original." As the Proprietors manifestly did not know their own minds, the delegates of the people, naturally impatient and indignant at this trifling with their interests and their rights, and never having assented to any set as required by the charters, "*unanimously declared that the government is now to be directed and managed wholly and solely according to the said charters.*" They then went a step further and "denied that any bill must necessarily pass the grand council before it can be read in parliament." During two sessions the Governor and the deputies of the Proprietors insisting on proceeding according to the Fundamental Constitutions, and the delegates of the people refusing to do so, all legislative proceedings were blocked; not even the militia act was passed which was necessary for the safety of the colony. The delegates proposed, for the maintenance of peace

<sup>1</sup> Oldmixon, who was a tutor in Benjamin Blake's family, and had, therefore, excellent means of information, gives the names of the committee as stated in the text. He states that this committee "drew up a new form of government differing in many articles from the former to which they gave the title of *standing laws*; and *temporary laws* . . . But neither Lords Proprietors nor the people of Carolina accepted of them." The address to Sothell, which contains so admirable a summary of the history of the colony to its date, gives the account in the text, *i.e.* that the work was abandoned amidst angry discussion. Rivers has followed this account, and we have preferred to do so likewise.



and justice, to assent and approve any law as required by the direction of the Royal charter, but the Governor and deputies refusing to allow any to be acted upon until first passed by the Grand Council, nothing was done. Finally, in December, 1689, the Proprietors instructed Colleton to call no more parliaments without orders from them, "unless some very extraordinary occasion should require it." As the acts usually ran but for twenty-three months only, the consequence of these instructions was that in 1690 not one statute law was in force in the colony.<sup>1</sup>

The issue was now fairly made between the people, on the one hand, contending for constitutional government under the charter and the Proprietors, on the other, claiming to govern by arbitrary instructions uncontrolled even by the terms of the "unalterable" Fundamental Constitutions which they had sent out with the colony under Sayle. In the meanwhile there was no law in the province, and Colleton proceeded to govern by his own will. He attempted vigorously to exact payment of quit-rent for every acre whether under cultivation or not; he forbade all inland trade with Indians, in his avarice, as it was charged, to monopolize the benefit for himself; and he imprisoned and fined a clergyman £100 for preaching what he considered a seditious sermon.<sup>2</sup> To enable him to maintain his authority, he requested the Proprietors to appoint only such deputies as he knew would support his government. This led to an outbreak. Letters from England, containing deputations of the Proprietors obnoxious to the people, were seized and suppressed. The people imprisoned Paul Grimball, the Secretary of the province, and took possession of all the public records. The little community was in a state of rebellion, and every man acted as he

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 152, 153; Appendix, 422, 423.

<sup>2</sup> *Ibid.*, 150.

thought proper, without regard to legal authority and in contempt of the Governor and other officers of the Proprietors.

In this emergency a number of the colonists were induced to sign a petition for the establishment of martial law, and without consulting the Commons, though his instructions from the Proprietors provided for his summoning them if an extraordinary occasion should require it, acting only on the advice of the deputies of the Proprietors, martial law was declared by Colleton at the head of the militia, who, ignorant of his purpose, had assembled under his call made upon pretence that some danger threatened the country. The members of the Assembly thereupon met without summons, and resolved that this proceeding of the Governor was an encroachment upon their liberties and an unwarrantable exercise of power at a time when the colony was in no danger from a foreign enemy. The Governor, however, persisted and attempted to put his martial law into execution, but the disaffection was too great to allow him to do so. Even the signers of the petition deserted him and declaring that they had been deceived, now joined in the cry against such an "illegal tyrannical and oppressive way of government." In the face of this Colleton quailed and shrank from the exercise of the power he had assumed. The courts were allowed to sit, and he attempted to exonerate himself on the ground that the delegates had refused to pass the militia act, and he feared an invasion by the Spaniards. The latter excuse was known to be unfounded; and to the former thirteen delegates replied, under oath, that they had proposed to pass the act. Indeed, as the people themselves constituted the only military force in the colony, this attempt to proclaim martial law was a great blunder as well as a political crime.<sup>1</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 154, 155; Appendix, 424, 425.

The colony was verging upon anarchy when the arrival of one Seth Sothell who, as a Proprietor, claimed the government, put a new phase upon the commotions and overthrew Colleton's government, setting up one in its stead, which, in its turn, was repudiated by the Proprietors.

The course of events in England, in the meanwhile, had been rapidly tending to the great revolution of 1688, which drove James II from the throne; and on the 1st of March, 1688-89, the Proprietors forwarded to Carolina the order of council to proclaim King William and Queen Mary, and annexed the oath to be taken.<sup>1</sup> Nor were the other American colonies much freer from commotion than Carolina. The tyranny of Andros was producing throughout New England a powerful popular reaction in favor of their charter governments. The failure of Lord Baltimore's deputies to proclaim William and Mary gave an opportunity to the disaffected Protestants to incite a revolt which resulted in the overthrow of his Lordship's charter, and the establishment of a Royal government. Pennsylvania was torn by various internal disputes, chiefly the religious schism caused by George Keith, the Quaker, and Penn was also soon to be deprived of his governorship. Delaware, Virginia, New York, and New Jersey, as well as New England, were now governed under the King's commission. Yet the Proprietors of Carolina continued an uninterrupted control over their vast province, because, enjoying "the hereditary right of complaining in person of their wrongs, they could interest a powerful body in their favor."<sup>2</sup>

Sothell was a man of remarkable, if not of good, character and of great ability. He had been sent in 1680

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 122.

<sup>2</sup> *Hist. Sketches of So. Ca.*, 149, 150, Rivers quoting *Revolt Am. Col.*, 264.



to regulate the distracted affairs in the colony at Albemarle, and on his voyage out had been captured by Algerine pirates, three years thus elapsing before his arrival in America. He bore with him the certificate of his authority dated at Whitehall, September, 1681, which is important as declaring the views of the Proprietors to his right of government under the Fundamental Constitutions. It reads thus:—

“Whereas Seth Sothell hath bought the Earl of Clarendon’s share in Carolina and is thereby become one of the true and absolute Lords Proprietors of the Province of Carolina and whereas by virtue of the Fundamental Constitutions *it is provided that the eldest proprietor that shall be in Carolina shall be governor* you are to obey him as such if there be no elder proprietor than himself.”

Instead of settling matters at Albemarle, his administration there was so marked by selfishness and rapacity that the people rose, deposed and banished him.<sup>1</sup> He sought refuge in South Carolina, and arrived here just in time to take part in the disturbed condition of affairs in this colony. His right to the government under the Constitutions, which the Proprietors were upholding, was clear by their terms, and for this he also held the certificate of the Proprietors themselves. He was received with insult by the Governor’s party, but welcomed by the people as a refuge from Colleton’s tyranny. Andrew Percival, who had been Governor of the attempted colony on the Edisto, Muschamp, the King’s revenue officer, Berresford, who had been clerk of the peace, Ralph Izard, and John Harris with five hundred of the best people petitioned him to issue writs for a Parliament.<sup>2</sup> This he did, as he had the

<sup>1</sup> All the wrongs and oppressions with which Hewatt charges him as having been committed in South Carolina, were really those for which he was driven out of the colony at Albemarle. Hewatt’s *Hist. of So. Ca.*, vol. I.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 155.

right to do, if the Constitutions were of any force ; but he followed this step up with another measure which was clearly illegal. He removed the deputies of the other Proprietors who were opposed to him and appointed Muschamp, Berresford, and Harris in their places.<sup>1</sup> The colony at Albemarle had banished him. His Parliament at Charles Town now banished Colleton. Himself a refugee from Albemarle, he becomes the expeller of others from Charles Town. Lieutenant Colonel Bull, Major Colleton, and Paul Grimball were disqualified for holding any civil or military office because they had acted with Colleton, and Thomas Smith because he had written the petition for the establishment of martial law.

The adherents of Colleton did not yield without a struggle. They could not, as supporters of the Constitutions, deny Sothell's right to supersede Colleton, — that was too plain by the letter of that instrument, which the Proprietors had been so insistent upon enforcing, — and Sothell had, moreover, their own written word for his right to do so. But they demanded that before assuming office he should declare his approval of the Proprietors' instructions as a rule of government. Placards were posted in public places charging him with treason and calling upon the people to withhold their obedience to his authority.

The Lords Proprietors, with their usual vacillation and faithlessness, abandoned Colleton. Before hearing of Sothell's assumption of the government, they had, on the 6th of October, 1690, appointed Thomas Smith Governor. But in May they had heard that Sothell was at Charles Town and had taken upon himself the administration, and they write that they are well pleased that he will submit to their instructions for the government. They hope he is too wise a man to claim any power but by virtue of

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 127.

them ; for, they go on to observe, in direct contradiction to their own declaration held by Sothell, that no single Proprietor by virtue of his patent had any right to the government or to exercise any jurisdiction unless especially empowered by the rest.

Hewatt and other writers have spoken of Sothell as an usurper,<sup>1</sup> but such he certainly was not under the Fundamental Constitutions, which the Proprietors persisted in maintaining to be of force. By these it was expressly provided that "the eldest of the Lords Proprietors who shall be personally in Carolina shall of course be the Palatine deputy," and if no Proprietor be in Carolina, nor heir apparent of any, then "the eldest man of the Landgraves."<sup>2</sup> Under this clause, as we have seen in the last chapter, the Proprietors, in 1684, objected to the selection by the Council of Colonel Quarry as Governor upon the death of Kyrle, because the government belonged of right to Morton as the eldest Landgrave in the province at the time, there being then no Proprietor present. So again we shall see them excusing themselves, in 1699, for not having obtained the approval of the Royal Government to Blake's appointment as Governor upon the ground that Blake did not exercise the office by virtue of appointment, but by virtue of his proprietorship. And Sothell now held their certificate or warrants that he was to be recognized and obeyed, because, by the Fundamental Constitutions, "it is provided that the eldest proprietor that shall be in Carolina shall be governor." The colonists might have objected to this commission, as they did not recognize the Fundamental Constitutions ; but if they waived that point and accepted him under the letter or certificate which he held from their Lordships without regard to the reason assigned, it certainly did not lay with the Proprietors to object. The

<sup>1</sup> Hewatt's *Hist.*, vol. I, 103.

<sup>2</sup> *Statutes of So. Ca.*, vol. I, 50.



point the Proprietors made was that no Proprietor could act as Governor without the assent of the others, but it was not so written, and until the Constitutions were formally altered they remained the law, at least for them. The affair presents still another instance of the instability and insincerity of all parties. Here we have the Proprietors denying the provisions of their favorite laws, and the people, who had so long been resisting, now for their immediate purpose standing upon them, because for the time they served their interest.

The Proprietors were wise enough, however, for the present not to make the issue, but summoned Sothell to return to England and answer to all the charges against him from both colonies. Sothell did not obey the summons, but continued to act as Governor for eighteen months longer. Finally, in November, 1692, the Proprietors in England wrote to him that he should cease to rule and commanded him to yield obedience to Colonel Philip Ludwell, whom they had commissioned to succeed him. For reasons of his own, he having now offended the people who had sustained him, he yielded to the demand and left the colony.

Whatever may have been Sothell's private character, however avaricious and disreputable, however tyrannical and oppressive his conduct for personal gain, yet the wisdom and liberality of the laws he enacted, the legislative activity displayed in restoring stability to the colony, and his judicious conduct in promoting the just wishes of the people, throw a doubt, observes Rivers, as to the malignant character that had been ascribed to him as a public officer. He it was who had the wisdom to see the usefulness and noble character of the French and Swiss, who were now coming into the province in considerable numbers and filling up waste places in Craven County on the Cooper and

Santee, which were soon to blossom as the rose under their skilful and laborious cultivation; and the first to constitute them citizens as free born in the colony, and of equal rights with the other settlers.

So, too, under his administration, the first act for the government of negro slaves was passed. This act followed generally the Barbadian slave code; but, in more than one respect, it was an improvement upon that law, especially in providing for the punishment of any one killing a slave. It provided, also, for the slaves' comfort, and required that they should have convenient clothes.<sup>1</sup>

Sothell yielded to Ludwell, and returned to his estate in North Carolina, where he died in 1694; and it is said that much of the wealth he had accumulated there was recovered by those from whom he had unjustly taken it.

<sup>1</sup> *Statutes of So. Ca.*, vol. VII, 343.

## CHAPTER XI

1692-94

COLONEL PHILIP LUDWELL had been secretary to Sir William Berkeley, Governor of Virginia, and had taken an active part with him in the suppression of Bacon's Rebellion. He had been the hero of Bland's capture; and, after Sir William's death, had married Dame Frances, the widow of that fiery cavalier.<sup>1</sup> In 1689 he had been appointed Governor of all that part of the province of Carolina that lies north and east of Cape Fear, to supersede Sothell at Albemarle.<sup>2</sup> Although the titles of North and South Carolina now began to be used in some official papers, there was no such division of the province at this time; on the contrary, the Proprietors were now attempting a plan of consolidating the two colonies into one government for the whole province.<sup>3</sup> On the 2d of November,

<sup>1</sup> Ludwell was the third husband of Dame Frances. This lady had the singular fortune of being the wife of three Governors in succession. Her first husband was Governor Samuel Stephens of Albemarle; her second, Sir William Berkeley, Governor of Virginia; her third, Colonel Philip Ludwell, now Governor of Carolina. Hawkes's *Hist. of No. Ca.*, vol. II, 447.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 362.

<sup>3</sup> Commissions of Governors of North Carolina usually ran as stated in the text; those of South Carolina ran, "of that part of the province which lies south and west of Cape Fear." So the enacting words of statutes of South Carolina usually were in the names of the Palatine and the rest of the Lords Proprietors "by and with the advice and consent of the rest of the members of the General Assembly now met at Charles Town *for the South West part* of this province." This was the usual form after 1690, but sometimes the word "province" only was used.



1691, Ludwell's commission was changed from that of Governor of the territory to the north and east of Cape Fear, to that of Governor of Carolina, and he was directed to issue writs for the choice of twenty delegates for the freemen of Carolina, — five for Albemarle County, five for Colleton County, five for Berkeley County, and five for Craven County, — to meet in such place and at such time as any three or more of the deputies should appoint. The bounds of these counties were defined as follows:<sup>1</sup> Albemarle County was restricted to the small but well-settled district between the Roanoke River and Virginia; Craven County occupied all the great extent of territory from the Roanoke to Sewee Bay; Berkeley, that between Sewee Bay and the Edisto, and Colleton County between the Stono and Combahee. By additional instructions, however, Governor Ludwell was directed that if he found it impracticable to have the inhabitants of Albemarle send delegates to the General Assembly held in South Carolina, he was then to issue writs for seven delegates to be chosen for Berkeley, seven for Colleton, and six for that part of Craven County that lay south and west of Cape Fear; and he was empowered to appoint a Deputy Governor for North Carolina.<sup>2</sup> With these instructions, original and additional, there were sent also another set of private instructions with minute directions to inquire into the mismanagement of former Governors and the grounds of popular complaint. He was to inquire into the charges made by Percival, Quarry, Izard, Muschamp, Harris, and Berresford against Governor Colleton; to make inquiry as to the alleged killing of several Indians, and, if proved, to have the guilty persons indicted and punished; to inquire by what authority Berresford had acted as deputy, and whether Sothell had refused to allow deputies of the

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 373.

<sup>2</sup> *Ibid.*

Proprietors to act; by what authority Robert Quarry sat as judge or sheriff of Berkeley County; and to restore Bernard Shinkingh as chief judge of same.<sup>1</sup> If he found the numbers of offenders in the late disorders to be so many that it might be inconvenient to punish them all, he was then to grant pardon to all except such as had been guilty of high treason and murder. He was to proceed, however, against some few of the most notorious and obstinate offenders, against whom the proof of crimes was plainest. He was to encourage people to reside at Savannah town,<sup>2</sup> or any other place among the Indians; to suffer all people to trade with the Indians. He was to make strict inquiry if Mr. Sothell had granted any commission to pirates for reward or otherwise; and was informed that "Jonathan Emery" knew about such transactions, and had received twenty guineas for procuring a commission from Sothell. The Proprietors informed Ludwell they had given power to their trustees to sell certain lands to such persons as should first have paid the purchase money in pieces of eight, after the rate of five shillings the piece of eight, etc.<sup>3</sup>

But Ludwell, notwithstanding the friendship of the Proprietors and his desire to harmonize the distracted state of the colony, entered upon his administration with no increase of power or promises of reform. "Employ no Jacobite," the Proprietors wrote on the 12th of April, 1693; "beware of the Goose Creek men; reconcile yourself to our deputies; don't expect to carry on the government with all parties; convince the people that the grand

<sup>1</sup> To what this instruction alludes we have not been able further to ascertain.

<sup>2</sup> Afterwards the site of Fort Moore on the Savannah, near where Augusta now is. Not the site of the present city of Savannah.

<sup>3</sup> *Colonial Records of No. Ca.*, vol. I, 381-384.

council has power by the constitutions to pass upon all bills before they can be submitted to parliament.”<sup>1</sup>

Notwithstanding the political turmoil which had continued without cessation in the colony from its commencement, its population was steadily, if not rapidly, increasing. The Huguenot immigration in Craven County and other settlers in Colleton were peopling those counties to a considerable extent; still Berkeley was by far the most thickly settled, and the inhabitants took further offence at this new and, as they regarded it, still more unjust disproportion of representation in the Assembly now called by Governor Ludwell under his instructions.

Colleton County with its new and smaller population had, under Governor Morton in 1683, been given equal representation with Berkeley, and now Craven with still fewer inhabitants, and those not even Englishmen, was given nearly the same. This created a new ferment. “Shall the Frenchmen,” said the English colonists, “who cannot speak our language make our laws?” The flame of national animosity was kindled against those whom they had welcomed with kindness, and whom the officers of the Proprietors had been instructed to befriend. Me-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 160; *Coll. Hist. Soc. of So. Ca.*, vol. I, 131.

“Goose Creek Men,” a paper purporting to be an assessment of the *Parish of St. James*, Goose Creek, for January, 1694, is given by Mrs. Poyas, the “Octogenarian Lady,” in the *Olden Time in Carolina*, p. 36. This is an anachronism, inasmuch as the parish was not established until 1704. The table of assessment, however, gives a list of the taxpayers on Goose Creek, *i.e.* the “Goose Creek men,” of whom the Proprietors were so afraid, from which we take the following: Thomas Smith, of Back River; Edward Hyrne; Thomas Smith, son of Landgrave; Colonel James Moore, Captain George Chicken, Captain Arthur Middleton, Captain Benjamin Schenckling, Peter St. Julien, Benjamin Godin, Mr. Mazyek, Henryda Inglish, and Captain John Neve. This list, however, is certainly not complete, for no mention is made of several of the most conspicuous of the planters in that settlement, *i.e.* Robert Gibbes, Ralph Izard, etc.



morials were addressed to the Governor to dissuade him from permitting the French to have seats in the Assembly. The severities of the alien law of England were threatened against them and their children. Their marriages and their property were held equally without the respect and protection of the laws.<sup>1</sup> Hewatt states that not a single representative was allowed from Craven in the election held under Governor Ludwell's call,<sup>2</sup> but this is a mistake; the journals show six members, all Huguenots, were returned and took their seats.<sup>3</sup>

The Parliament thus organized, however, was not more subservient to the Proprietors than the former had been. As soon as the new Assembly met in September, an address was sent to Ludwell requesting "an act of free and general indemnity and oblivion, and a confirmation of all judicial proceedings in the late government" as essential for the prosperity of the colony and the efficiency of any law that might be made for the good of the people. The necessity for some such measure had been recognized by the Proprietors in their instructions to the Governor; but while offering a general pardon, they had excepted not only those guilty of high treason and murder, but had also directed proceedings against "some few of the most notorious and obstinate offenders" as to "whom the proof was plainest," which was understood really to mean that all

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 176.

<sup>2</sup> Hewatt, *Hist. of So. Ca.*, vol. I, 113.

<sup>3</sup> The members of the Assembly were as follows: From *Berkeley County*: Major Benjamin Waring, James Moore, Esq., Ralph Izard, Esq., Mr. John Ladson, Mr. John Powis, Mr. Jonathan Amory, Mr. Joseph Pendarvis. From *Colleton County*: Robert Gibbes, Esq., William Davis, Esq., James Williams, Esq., Mr. Daniel Courlis, Mr. James Gilbertson, Mr. Joseph Ellicot, Mr. James Stanyame. From *Craven County*: Alexander Thette Chastaigner, Esq., John Boyd, Esq., Paul Bonneau, Esq., Mons. Rene Ravenel, Mons. John Gendron, Mons. — Lebas. *Commons Journal* (MSS.).

the leaders against whom evidence could be obtained were to be indicted. Ludwell could not under these instructions grant the general pardon asked for; nor does his reply, observes Rivers, indicate the mildness of disposition generally attributed to him.<sup>1</sup> He called upon the Assembly, as the house of representatives now began to be called, to look to their journals and to judge what clemency could be demanded. In a rambling and incoherent style he thus addressed the Speaker: —

“We are unwilling Mr. Speaker to believe that address had due and mature consideration in the house, being unable to comprehend those double locks and bars viz.: indemnity from and confirmation of all the judicial proceedings that past in the last government.”

In the same confused manner he went on to say that he could not imagine the meaning “of the two fortifications” *i.e.* indemnity and confirmation —

“For certainly on the part of any of the activist or cruelists persons in the last government, neither lock nor bar will be needful; they need do no more than stand in the open street with the gracious concession in their hands, which being shown, must like Medusa’s head kill all the opponents that behold it. And how far then an act of indemnity will shroud those whose properest interest it will be to seek it by this fatal turn of the tables, or how or where they will obtain it we know not; but do guess you well know (your last demand being granted) it must be on the part of those who were the eminentest sufferers in the last government to beg it to secure their all ready half-cut throats from the other slash; for our part we cannot possibly see what can be ascribed to us (whose own throats by the way must be exposed among the rest) but by a mistaken act of mercy to confirm, may heighten all the cruelties of the last government! Is this to be the way to establish peace and safety on either part. Mr. Speaker we must own we understand it not.”

The Assembly replied, explaining their address, a misunderstanding of which they supposed had caused his Honor’s “strange style.” They repeated their request.

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 162.

Ludwell, on his part, offered an act in accordance with the instructions he had received. The Assembly would accept this only with alterations, and he could not accede to their alterations, but proposed that they should accept the indemnity as from him and the deputies for what it was worth, and prepare on their part a representation of their grievances to the Proprietors. His indemnity was unanimously declined; but a statement of their grievances was prepared by the Assembly. This paper, which was signed by Jonathan Amory, Speaker, presents very clearly the issue between the Proprietors and the colonists.<sup>1</sup> (1) The first grievance stated was in regard to the form of conveyancing of land—all the Proprietors had not agreed to the same form, and the latest form, *i.e.* that by indenture instead of simple patent, was not satisfactory to the people. (2) The Receiver of Rents had not been commissioned by all of the Proprietors, so there was no one authorized to give a full acquittance and discharge to the purchasers and tenants. (3) That the offices of Sheriff and Judge of Pleas were lodged in one and the same person. (4) That although by the charter the power of erecting courts was in the Proprietors, yet the courts ought to be regulated by laws made by the assent of the people. (5) That the public officers were allowed to take much greater fees than were allowed by act of Parliament in England for the same and like services. (6) That the representatives or delegates of the people were too few in the Assembly, and that the people were not allowed to determine the number of their delegates according to the King's most gracious charter. (7) They objected to the two Palatine courts—one in England and one in Carolina. They complained that one made void what the other enacted—thus of late several

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 433-435.



acts of the Assembly had been repealed by the Palatine Court in England, which had been ratified by the Palatine Court in Carolina. That their Lordships' deputies in Carolina should be fully empowered to give their assent to laws and acts by the people. (8) That the Palatine Court in Carolina assumed to put in force such English laws as they deemed adapted to the province; but the Assembly conceived that either such laws were valid of their own force, or could only be made so by an act of Assembly. (9) That inferior courts had taken upon themselves to adjudge and determine the power of Assembly or the validity of acts made by them and of matters and things relating to the House of Commons. This the Assembly conceived to be without the jurisdiction of such courts; and only inquirable into and determinable by the next succeeding General Assembly. (10) The setting up of martial law (except in cases of rebellion, tumult, sedition, or invasion) they conceived not warranted by the King's charter. (11) They objected to the taking of bonds or writings obligatory not authorized by law. (12) They represented the want of a competent number of commoners to represent them in Council. (13) They complained of the refusal of an act of indemnity and confirmation till their Lordships' pleasure should be known. (14) The last clause of this presentment, which was added in September, 1693, complains of a grievance which was to outlast the Proprietary, and to continue under the Royal Government until that too was overthrown. This was the requirement that no important measure was allowed to be put in force until their Lordships' consent could be obtained from England, which could never be in less than a year, and which in fact often delayed measures for two years; so that it sometimes happened that the occasion or reason for the enactments had passed before they were acted upon in England.

This paper is a most interesting one, presenting as it does probably the first instance of a petition, or Bill of Rights, drawn in America. It is the more so, too, because it is one based upon rights claimed under a written constitution. It is a presentation of the rights claimed by the people under the letter of the charter of the province.

The objections presented by it to the form of conveyances presented by the Proprietors; to the want of proper authority in the Receiver of Rents; to the improper exaction of fees by public officers; to the requirement of bonds not authorized by law,—were matters which, though of no small importance to the people, were, nevertheless, in the nature of temporary inconveniences, abuses rather of the law itself than of its authority. The vesting in the same persons of the judicial and executive functions of Judge and Sheriff, though doubtless most objectionable, was still more a matter of convenience than of constitutional right, the remedy for which properly lay in the sound judgment of the lawmaking power wherever that was reposed. The demand for indemnity for acts done under Sothell's administration, though just and reasonable, was a matter of personal and temporary character. But the other complaints were fundamental and involved the prerogatives of the Proprietors on the one hand, and of the rights and liberties of the people on the other. These objections extended not only to what the Proprietors prescribed by their constitutions and instructions; but to their right to make any such prescription without the assent of the people. It was a far-reaching demand which the Assembly made when it claimed that though by the charter the Proprietors were authorized to erect courts, yet the jurisdiction of the courts and the laws regulating them could only be made with the assent of the people. The power to regulate and control the courts is the power to prescribe

the law. For of what use was the provision of the charter insuring to the people that no laws could be made without their assent and approbation, if the Proprietors could without such assent set up courts to pass upon the validity of laws and to construe them? So, too, they denied the right of the Proprietors to prescribe the number of the representatives of the people without consultation with them. They objected to the two Palatine courts, one in England and one in America. The charter provided for a government of the province in America. It did not provide for one in England. The Assembly well argued that if the laws of England were applicable to the province, they were so *proprio vigore* and needed not the sanction of the Palatine Court; but if they were not applicable by their own inherent force, they could only be made so by the act of the Assembly. It is curious to observe that among the grievances of which the Assembly complain is that inferior courts had taken upon themselves to adjudge and determine the power of the Assembly, and of the validity of acts made by them. So it appears that at this early day the courts of Carolina were assuming to pass upon the constitutionality of laws. They were, it is true, now doing so in the interest of the Proprietors as against that of the people; but whatever its present purpose and inspiration, it was an important step taken, though unconsciously, in the direction of liberty, when courts began to inquire into the authority of the laws themselves. Because, however its immediate purpose was to condemn the Assembly which refused to act with Colleton, the people at that time failed to recognize the advantage which would accrue to them by such a precedent.<sup>1</sup> The Assembly well protested against the great

<sup>1</sup> The questions as to the origin of the judicial power exercised by the courts of the United States — State and Federal — to declare void uncon-



inconvenience and wrong of postponing the enactment of measures until leave could be obtained from England. We shall see the same cause operating most disastrously under the Royal Government, preventing the establishment of courts to meet the necessities of the increasing population.

It happened that while the Assembly was engaged in preparing this paper in Carolina, the Proprietors were considering the same subject in England, but with no purpose to grant the desired relief. On the 8th of November, 1692, they write to Ludwell withdrawing the power they had the year before given him to allow such legislation as might be thought necessary for the better government of the province, to continue in force for two years with the assent of himself and of the deputies. They repeal and make void all changes in the laws relating to the courts, magistrates, sheriffs, juries, or elections made under Sothell, and direct that all bills relating to such matters and consented to by the Governor and deputies should be transmitted to them, to be considered and passed upon in England before

stitutional acts of the legislature, and as to the first instances in which it was exercised, have of late given rise to much discussion. The earliest instances hitherto adduced having been one by a court in Rhode Island, which held the "forcing act" unconstitutional in 1786; and one by a court in North Carolina, which set aside an act affecting trials by jury in 1787, and the famous case of *Marbury v. Madison*, Sup. Ct. U. S., in 1803. See "Origin and Scope of the American Doctrine of Constitutional Law," Professor Thayer, *Harvard Law Review*, October, 1893; "An Essay on Judicial Power and Unconstitutional Legislation," Brinton Coxe, *Am. Law Review*, March and April, 1885; McMaster's *Hist. of the People of the U. S.*, vol. I, 337-339; *The Nation*, vol. LVII, Nos. 1474, 1475, 1477, 1484, 1506. But here we find the colonists in South Carolina objecting to the exercise of such a power by inferior courts under the Proprietary Government a hundred years before. It is to be regretted that we have no record of these courts, nor do we even know how they were constituted and who presided in them. Indeed, we have no record that there was a professional lawyer in the colony at the time.

published as law in Carolina.<sup>1</sup> They, however, sent out under their "great seal" a general pardon to the people of Carolina (James Moore and Robert Daniel being excepted) for all crimes and offences "committed prior to the publication of Ludwell's commission in hopes that in time to come it may beget a firm resolution to become strict observers of the laws." Unhappily, there was an unaccountable delay in announcing this pardon to the people.<sup>2</sup>

The issues were thus becoming more and more sharply defined between the Proprietors and the colonists; and in the struggle the colonists were steadily gaining. They had overthrown and banished one Governor — Colleton. They had compelled the Proprietors to recognize Sothell and to allow his administration, thus setting aside Smith, whom the Proprietors had nominated as Governor, and had maintained Sothell until his rapacity and oppression had turned them against him. They were now managing Ludwell, notwithstanding his instructions from their Lordships.

Though during the next thirteen years we shall find further attempts to impose the Fundamental Constitutions upon the people, the Proprietors now began to recognize that they could never be enforced, and this they secretly admitted to Ludwell. They privately wrote to him that as Mathews, who claimed to be empowered by the people, assured them that they would not own those laws, they had made his instructions as Governor "*suitable to our charter*." A still greater concession was rendered necessary when Ludwell's Parliament appointed a committee to frame a "system of government." This, indeed, the

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 435, 436.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 163; *Coll. Hist. Soc. of So. Ca.*, vol. I, 130.

Proprietors appear to have accepted as a formal rejection of the Constitutions and wrote to Ludwell that as the people had rejected "the excellent system of Locke," they had therefore "thought it best both for them and for us to govern by all the power of the charter, and will part with no power till the people are disposed to be more orderly." This reluctance and reservation, however, were expressed to Ludwell alone, while publicly it was announced, "that as the people have declared they would rather be governed by the powers granted by the charters without regard to the Fundamental Constitutions it will be for the quiet and the protection of the well disposed to grant their requests."<sup>1</sup>

In the meanwhile the Parliament, *i.e.* the Governor, Council, and Assembly, in October, 1692, had passed several important measures. Three of these related to the courts. One empowered magistrates, justices, and others to execute the *habeas corpus* act of Charles II; another provided for the drawing of jurymen in all causes, civil and criminal; and another for the trial of small and mean causes. Disregarding the provisions of the Fundamental Constitutions as to the qualification of voters for members of the Assembly, an act was passed giving the privilege of voting to any person otherwise qualified who was worth ten pounds, without reference to the time of his residence in the colony.

In regard to the *habeas corpus* acts, the Proprietors assumed that all laws of England applied to the colonies, and held that it was not necessary, therefore, to reënact that famous statute in their provinces. They disallowed the act purporting to do so. The doctrine that the laws of England were not of force in the colony they declared erroneous. "By those gentlemen's permission that so say,"

<sup>1</sup> *Hist. Sketches of So. Ca. (Rivers)*, 164.



wrote the Proprietors, "it is expressed in our grants from the crown that the inhabitants of Carolina shall be of the King's allegiance; which makes them subject to the laws of England."<sup>1</sup> But the subject was not disposed of so easily. It was one full of difficulty. The question had been one of great doubt, and puzzled the lawyers of England.

The theory of the law was that where an uninhabited country was discovered and planted by English subjects, all laws in force at home became at once applicable; but in the case of an inhabited country conquered, not until declared so by the conqueror.<sup>2</sup> The trouble was to determine as to which category the English dominions in America belonged. Hilton, Sayle, and Sandford had, it is true, each sailed upon voyages of "discovery"; but the country had been discovered long before, and, indeed, partial attempts had been made to settle it. The Spaniards claimed Carolina as part of Florida, upon which they had an established settlement at St. Augustine. Great Britain could scarcely claim, therefore, by virtue of discovery. Could she do so as of conquest? And if so, conquest of whom — Spaniards or Indians? Surely not of the Spaniards, for peace nominally reigned at the time of the grant of charter by King Charles II. Could she claim

<sup>1</sup> *Hist. Sketches* (Rivers), 161.

<sup>2</sup> *Blankard v. Galdy*, Salkeld, 411; *Rex v. Vaughn*, *Burrows's Reports*, vol. IV, 2500. This most important and delicate question was to remain a subject of constant controversy, not only in the American colonies, in the Islands, and on the Continent, but in Ireland as well. It lay at the root of the differences between American colonies and the mother country in regard to the navigation laws and the stamp acts, and the news of the surrender of Lord Cornwallis found Flood and Grattan engaged in the Irish Parliament in the old discussion as to the effect and validity of Poyning's law, which rendered Ireland amenable to English statutes. *England in the Eighteenth Century* (Lecky), vol. IV, 466–570; *Leaders of Public Opinion in Ireland* (Lecky), 85.

the territory as of conquest from the Indians? The Proprietors were pretending, at least, to purchase the lands from them.

The question had been raised and discussed in the last year of the reign of Charles II, but had not been definitely decided.<sup>1</sup> It was, therefore, still an open one when so dogmatically decided by the Proprietors; and from their position they were obliged ultimately to recede when, in 1712, under the administration of Craven, they allowed and approved the act adopting the common law and such statutes of England as were deemed applicable to the condition of the province. Indeed, among others, they sanctioned the adoption by the Assembly of South Carolina of the very act they now so wisely reprovéd the colonists for passing.<sup>2</sup> And it was well that they did so, for some years after, in a case coming from Jamaica, Lord Mansfield held that no act of Parliament made after a colony is planted is construed to extend to it without express words showing the intention of the legislature to be that it should.<sup>3</sup> The *habeas corpus* act of Charles II, Shaftesbury's greatest work, by which personal liberty has been more effectually guarded in England and America than it has ever been in any other country in the world, was not enacted until thirteen years after the second charter of Carolina.

The act providing for the drawing of juries which the Proprietors disallowed is lost. It has been supposed that it was the origin of the admirable jury system which has ever since substantially prevailed in South Carolina, if not

<sup>1</sup> *Daws v. Sir Paul Pindar*, *Modern Reports*, vol. II, 45.

<sup>2</sup> See *post*, *Statutes of So. Ca.*, vol. II, 401.

<sup>3</sup> *Rex v. Vaughn*, *Burroughs's Reports*, vol. IV, 2500; Blackstone's *Com.* (Sharswood's ed.), vol. I, 108, note; Jacob's *Law Dictionary*, title "Plantation."

from this precise time, from some very near period.<sup>1</sup> The first extant act upon the subject is that of 1731;<sup>2</sup> but this act does not purport to originate the system. It is entitled an act "*confirming and establishing the ancient and approved method of drawing juries by ballot.*" The plan was certainly, therefore, in existence prior to 1731. It has been ascribed to Thomas Smith, the Landgrave.<sup>3</sup> By this system jurors were not selected by the sheriff, as is usually done elsewhere, but the names of all the freemen in the province having been taken on small pieces of parchment of equal size, they were put into a ballot box and shaken so as to be thoroughly mixed; whereupon at every court before it rose twenty-four names were drawn from the box by a boy under ten years of age; and from these names, put into another box, twelve names were drawn by another boy under the same age. The persons whose names were so drawn were summoned to appear at the next term of the court. If any were challenged, the boy continued drawing until the jury was full. By this system, the packing of juries by corrupt sheriffs was rendered well-nigh impossible. The system has been modified from time to time as to the qualification of jurors and as to the manner of forming the lists; sometimes it has been by the court, sometimes by the legislature, sometimes by specified officers or jury commissioners, but in its main features it has been preserved until this day.

The act of 1792, however, is not to be found, and its terms can only be known from the reasons assigned by the Proprietors for disallowing it; and from these it can scarcely be believed that the act disallowed contained

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 101, note. Hewatt speaks of the system as according to an article of the Fundamental Constitutions (vol. I, 114), but in this he is mistaken. There is no such provision in those laws.

<sup>2</sup> *Statutes of So. Ca.*, vol. III, 274.

<sup>3</sup> *Hist. Sketches of So. Ca.* (Rivers), *supra*.



such excellent provisions; indeed, they strongly imply that, on the contrary, the sheriff, under its terms, could name as jurors what persons he chose. One of the objections to the acts was that it required the sheriff of each county to divide all the persons of his county into sets of twelve, and to draw two papers of twelve names each for jurymen for the next court.<sup>1</sup> This plan they thought unreasonable and dangerous, as the sheriffs might so “divide the twelve for each paper that there might be in every paper some notorious favorers of *pyrates*,” who could prevent their punishment. They disallowed the act.<sup>2</sup>

The Proprietors also disapproved the act regulating elections; not because of its violation of the Fundamental Constitutions,—those they, at least for the present, tacitly abandoned,—but because they alleged it was so loosely drawn that any one might be admitted to vote for members of the Assembly who was worth ten pounds, regardless of the length of his residence in the province; indeed, it was so loose, they said, “that all the *pyrates* that were in the ship that had been plundering the Red Sea had been qualified to vote for representatives in Carolina.”<sup>3</sup>

These allusions by the Proprietors to pirates have been made the foundation of renewed charges against the colonists of Carolina for countenancing these enemies of the human race, if not of actual complicity with them. Hewatt charges that the gentleness of the government towards them and the civility with which they were treated were evidences of the licentious spirit which prevailed in the province; that, by their money and freedom of intercourse with the people, the pirates so ingratiated themselves into public favor that it was no easy matter to bring them to trial, and dangerous to punish them as they deserved.

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 436.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*, 437.

The courts of law, he states, became the scene of altercation and confusion; that bold and seditious speeches were made from the bar in contempt of the Proprietors and their government; that, as no pardons could be obtained, the *habeas corpus* act was passed, and that hence it happened that several of the pirates escaped, took up their residence in the colony, and purchased lands; and that finally the Proprietors granted an act of indemnity to all except those who had been engaged in plundering the Great Mogul, most of whom found means of making their escape out of the country.<sup>1</sup> Ramsay, who, as usual, follows Hewatt without further investigation, amplifies the charge. "The courts of law became," he says, "the scene of altercation and confusion. The gold and silver of pirates enlisted in their behalf the eloquence of the first gentlemen of the bar, too many of whom held that every advantage, though at the expense of honor, justice, public good, and even truth, should be taken in favor of their clients. Hence it happened that several of the pirates escaped, purchased lands, and took up their residence in the colony."<sup>2</sup> No foundation whatsoever can be found in the records of the time, further than the brief allusions which we have quoted, for these extraordinary charges. They are gratuitous and bear on their face their own refutation. It is not known that there was a single lawyer in the province at this time, and not probable that there could have been one who, in these stirring times in this small community, is not even mentioned. There were, therefore, no "first gentlemen of the bar" to degrade themselves as Ramsay charges. But the absurdity of the charge will more fully be appreciated when we remind the reader that by the law of England at that time, at the time when Hewatt wrote, at the

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 116-117.

<sup>2</sup> Ramsay's *Hist. of So. Ca.*, vol. I, 200.

time when Ramsay wrote, and for years after counsel were not allowed the accused in criminal trials. It was one of the anomalies of the English law against which Sir William Blackstone protested (1765),<sup>1</sup> and which remained unremedied until 1836.<sup>2</sup> The charter had given the Proprietors power to make war upon "pirates and robbers" as public enemies; this did not confer upon them jurisdiction of piracies generally. Hewatt, the historian, has doubtless confused the incidents in regard to the pardon and indemnity demanded by the people growing out of Colleton and Sothell's administrations with those relating to the pirates.

The charges against the colonists of Carolina in this matter are no more consistent than just. They are accused on the one hand of enacting a jury law, by the provisions of which pirates might escape conviction; and on the other of bringing over the English *habeas corpus* act to rescue any that the juries might convict, and this because the Governor would not pardon except so far as authorized by the Proprietors.<sup>3</sup> This accusation involves the Proprietors in England as much as it does the colonists in Carolina; for it implies that the judges and magistrates appointed by the Proprietors would protect the pirates if the juries did not, and discharge them on *habeas corpus*. The truth is, that neither the Proprietors nor their Governor had any jurisdiction over piracy on the high seas, and no power to discharge or pardon. Piracy is an offence against the law of nations, and by the common law of England, when committed by a subject, a species of treason, and until the Statute 28 Henry VIII was cognizable only in the Courts of Admiralty.<sup>4</sup> The Statute of Henry VIII had not yet

<sup>1</sup> Blackstone's *Com.*, vol. IV, 355.

<sup>2</sup> *Encyclopedia Britannica*, title "Criminal Law," Edmund Robertson.

<sup>3</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 116.

<sup>4</sup> Blackstone's *Com.*, vol. IV, 71.



been made of force in the province. We shall see in a controversy over the succession to Governor Blake, in 1700, that it was maintained that the charter did not empower any officer of the Proprietors to try persons for acts committed out of their dominion, and that hence a Royal commission was necessary to a judge in admiralty.<sup>1</sup> The government in England had, therefore, required the passage of acts in the colonies providing commissions in admiralty; and his Majesty on the 22d of January, 1687, had issued his proclamation of pardon to all who would come in and accept its terms.<sup>2</sup> It was not, therefore, the Proprietors who granted the indemnity to these people, as Hewatt asserts, but King James. The government in England had required the passage of acts providing commissions in admiralty, but as yet it had appointed no Vice Admiral or prosecuting officer.

Piracy, it is true, by international law is an offence against all nations and punishable by all; and pirates may be pursued in any country where they may be found without regard to the question on *whom* or *where* the piratical offence has been committed.<sup>3</sup> This we shall see to be the law announced by Chief Justice Trott in the famous case of Stede Bonnet in 1718, in a charge which is quoted by law writers as correctly laying down the rule.<sup>4</sup> But supposing the courts of Carolina common law and admiralty to have been fully organized, could this feeble colony, struggling yet for its own existence, have been expected to take upon itself the vindication of the law of nations because pirates of the Red Sea happened to be shipwrecked on the coast of the province? The criticism of the con-

<sup>1</sup> See *post*.

<sup>2</sup> *Public Records of So. Ca.* (MSS.).

<sup>3</sup> Kent's *Com.* (12th ed.), vol. IV, 186.

<sup>4</sup> *Phillimore on International Law*, CCCLVI.

duct of the Carolinians in this matter, it must be remembered, relates to the first thirty years of the colony; there is no question of the vigor of their efforts against the pirates after that time. The colonists of Carolina have been held by historians to an accountability in the matter altogether unwarranted by the circumstances in which they stood. There is no reason to suppose that the jury law and *habeas corpus* act were at all connected with that subject.

As before observed, it was well known that the whole southern coast of America and the West India Islands were infested by pirates before any settlement was attempted in Carolina. The charters of the province refer to *pirates* and Indians as the enemies in particular with whom the colonists would have to contend. The relation of the early settlers was the same to one as to the other. They looked with dread upon both, and no doubt met the one and the other alike with conciliation or resistance as their necessities demanded or their circumstances warranted. It was not until 1687 that the British Government itself made any practical effort for the suppression of piracy. During the period of open war between England and Spain letters of marque and reprisal had been freely issued, nor was much inquiry made to ascertain whether the buccaneers and privateers had taken the trouble to obtain the authority of such commissions. Charles II, upon his restoration, ordered that every encouragement and protection should be given these adventurers; nor did his Majesty disdain himself to become a partner in the buccaneering business. One of the causes of the difference which existed between Clarendon and Lord Ashley, two of the Proprietors of Carolina, arose out of this matter. Clarendon was opposed to the employment of privateers. Once they were countenanced, he said,

they brought unavoidable scandal and a curse upon the justest war. "A sail! A sail!" he declared, "is the word with them. Friend and Foe is the same. They possess all they can master, and run with it to any obscure place where they can sell it, and never attend the ceremony of an adjudication." But Ashley, on the other hand, having secured the appointment of Treasurer of Prize Money, encouraged his Majesty in their maintenance.<sup>1</sup> Once the taste for such a life had been acquired and the profits of it experienced, it required more than a formal declaration of peace to dissolve these roving bands and put an end to their plunder. It is, indeed, related that King Charles himself continued to exact and receive a share of the booty even after he had publicly issued orders for the suppression of this species of hostility. As before mentioned, Henry Morgan, the most famous of the buccaneers, was knighted by his Majesty and made Deputy Governor of Jamaica, doubtless in a measure from the good understanding that prevailed between the King and himself in their copartnership.<sup>2</sup> But little attention was paid, therefore, to his Majesty's orders when, during the nominal peace between Spain and England, he found it to his interest to avow his purpose by putting an end to piracy. Upon the accession of James, however, a more serious effort was made to this end. In August, 1687, a small fleet was dispatched under Sir Robert Holmes with a commission "for suppressing pirates in the West Indies."<sup>3</sup> A copy of this commission was sent to the Proprietors, with instructions for their coöperation. Pirates and sea-rovers coming unto any of the ports of the province were

<sup>1</sup> *Life of Clarendon*, Oxford, MDCCLIX, 242.

<sup>2</sup> Bryan Edwards's *Hist. West Indies*, vol. I, 169.

<sup>3</sup> Chalmers's *Pol. Ann.*; Carroll's *Coll.*, vol. II, 319; *Hist. Sketches of So. Ca.* (Rivers), 147.



to be seized and imprisoned, and their ships' goods and plunder were to be taken and kept in custody until his Majesty's Royal pleasure should be known. These instructions the Proprietors at once forwarded to the Governor, and washed their hands of all further responsibility. Sir Robert Holmes's commission, it may be observed in passing, granted him for three years all the goods and chattels taken by him from pirates or privateers,<sup>1</sup> rendering his service one scarcely less of plunder than that of the pirates themselves. Together also with the instructions for the suppression of piracy and copies of Sir Robert Holmes's commission, there was sent a notice that his Majesty had learned a wreck had been discovered near the coast of Hispaniola, from which a considerable quantity of silver and other treasures had been taken and carried into divers parts of his dominions in America, and warning the colonists not, indeed, to leave the wreck and its treasures to its owners, but that the King claimed one full moiety of all treasure and riches taken from the bottom of the sea as being by the ancient ordinances of admiralty due to his Majesty. Sir Robert was to have all the treasure he could capture from the pirate, and the King was to have his full share of all that could be found in wrecks. Under Sir Robert's commission his interest was certainly not to protect commerce and the colonies from the pirates, but rather to let the pirates get all the treasure they could, and then to retake the treasure from them and appropriate it to himself.

Just what assistance the Carolinians gave Holmes, observes a writer upon this subject, is not known.<sup>2</sup> But a more pertinent historical inquiry, perhaps, will be: what

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 120.

<sup>2</sup> S. C. Hughson, *Johns Hopkins Univ. Studies*, 12th Series, V, VI, VII, 26.

assistance did Sir Robert give to the Carolinians? The Proprietors extended to them the King's orders to seize all pirates who should enter their ports. But how was this to be done? Pirates are men of war; armed men, manning armed vessels. The scourge had been that, by means of their arms, they could descend upon and plunder not only merchant vessels but small peaceable communities. Thus it was that Morgan had swept down upon and plundered Porto Bello and Panama, and carried off large treasures from them. Again we ask, were the Carolinians, surrounded as they were by hostile Indians, in danger of Spanish invasion, now also threatened by the French on the Mississippi, governed by a feeble board in England, who, while unable to afford them protection from any of these dangers, three thousand miles away, were harassing them in their government — were the Carolinians, in a state of civil turmoil, weakness, and danger, to incur the animosity of new enemies and to invite the special attention of the pirates whom the British fleet under Holmes could not or would not suppress? But suppose that in obedience to the instructions of the Lords Proprietors the colonists had valiantly determined to seize, prosecute, condemn, and execute all pirates who should venture upon their coast, where was the legal machinery provided for their doing so? A commission in admiralty has been authorized by the act passed in Colleton's time. But as yet there was no Vice Admiral, no Marshal, no Clerk; no court organized for the purpose. While the Lords Proprietors were amusing themselves with the making of Landgraves and Caciques, and bestowing upon them baronies and manors, for the practical business of administering justice, they had no Attorney General to prosecute, and but one person to sit in condemnation as Judge, and to execute his own decree as Sheriff. The same person was to arrest and drag into

his court the accused; then to mount the bench and condemn; then to take the prisoner to his execution or to see at least that the stripes he had awarded were well laid on by some other criminal assigned by him to the task. It was in this condition of society that the colonists were called upon to enforce the laws against offences not committed against themselves, nor within the limits of their province. It was not until April 12, 1693, that the Proprietors authorized the Governor to appoint some fitting person Attorney General for the prosecution of crimes. Nor does it appear that such a man was then to be found in the province. More than a year after, August 13, 1694, the Proprietors announced that they had appointed Ferdinando Gorges of the Inner Temple Attorney General of the province of Carolina;<sup>1</sup> but the honor was not sufficient to induce that gentleman to come out, and it was not until nearly three years after that Nicholas Trott, the first Attorney General for South Carolina, was appointed.

Hewatt states that about the time of the passage of the *habeas corpus* act and the jury law by the Parliament of Carolina (1692), forty men arrived in a privateer called the *Loyal Jamaica*, who had been engaged in a course of piracy, and brought into the country treasures of Spanish gold and silver. These men, he says, were allowed to enter into recognizance for their peaceable and good behavior for one year with securities, till the Governor should hear whether the Proprietor would grant them a general indemnity. At another time, he goes on to say, a vessel was shipwrecked on the coast, the crew of which openly and boldly confessed they had been on the Red Sea plundering the dominion of the Great Mogul.<sup>2</sup> Hewatt does not give his authority for the statement in regard to

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 136.

<sup>2</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 115.



the passengers of the *Loyal Jamaica*, but Dalcho, in his *Church History*, gives the names of twenty-one of them, among which are some of the most honored names in South Carolina.<sup>1</sup> Fortunately, two books of miscellaneous records are preserved, one in the Secretary of State's office in Columbia, and the other in the Probate office in Charleston, which together explain the circumstances and refute Hewatt's allegation that these persons had been engaged in piracy. Some of them, it is true, had been engaged in a cruise as privateers under a commission from King William against the French. The story is probably based upon a letter of Edward Randolph, the collector of the King's customs in America, which we shall have occasion to quote a little later, in which the most reckless charges were made against the colonists, not only in Carolina, but in every other province in America. In this letter of 1696, Randolph, complaining that Governor Blake was a favorer of illegal trade, states that, about three years before, seventy pirates, having run away with a vessel from Jamaica, came to Charles Town, bringing with them a vast quantity of gold from the Red Sea. That they were entertained and had liberty to stay or go to any other place; that the vessel was seized by the Governor for the Proprietors and sold.<sup>2</sup> There is no record that the *Loyal Jamaica* was so seized. But in a fragment of the journal of the Grand Council found in Grant Book of 1672-94, in the Secretary of State's office in Columbia, to which we have alluded, there is a list of twenty-two persons who were required to enter into recognizances upon their arrival in that vessel, doubtless under the instructions which were sent out with the copy of Sir Robert Holmes's commission, in order that the validity of her commission might be examined. This record gives the names

<sup>1</sup> *Ch. Hist.*, 15.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 196.

of the persons, the amounts of their recognizances, which, except in the case of the captain, George Reiner, one Joshua Wilkes, and one James Gilchrist, were merely nominal, and gives also their sureties. Among these persons were Thomas Pinckney, Robert Fenwick, and Daniel Horry. The sureties for Thomas Pinckney were Sir Nathaniel Johnson and Francis Noble, Gentleman; for Robert Fenwick, Sir Nathaniel Johnson and John Alexander; for Daniel Horry, Isaac Massique (Mazyck?) and Peter Girard. It is probable that all but the captain, Wilkes, and Gilchrist were merely passengers.<sup>1</sup> In the Miscellaneous record book in the Probate office in Charles Town there are depositions of Honory Perry, Thomas Pinckney,

<sup>1</sup> In *Grant Book*, Secretary of State's office, 1672-94, p. 78, we find this entry: "The under named persons arrived in this part of the Province the —day of April Anno Domini 1692 in the shipp called the *Loyal Jamaica* commonly called the Privateer vessell. Each man entered into Recognizance with securities in the month of May 1692. In the sums to their names annexed for one year or until the government heard from England.

<i>It</i>		<i>It</i>	
John Watkins . . . . .	0.50	James Moore Esq. Cap <sup>t</sup> Edmund Billinger . . . . .	0 25
Richard Newton . . . . .	0.50	Cap <sup>t</sup> George Dearsley Edward Rawlins . . . . .	0.25
Roger Gosse . . . . .	0.40	Maj Robert Daniel Charles Burnham . . . . .	0.20
Adam Richardson . . . . .	0.50	Robert Gibbes Esq. William Beardesly . . . . .	0 25
Edmund Mendlieotte . . . . .	0 80	Cap <sup>t</sup> Charles Basden Peter Girrard . . . . .	0.40
William Ballok . . . . .	0 40	John Sullivan Edward Loughton . . . . .	0.20
Christopher Linkley . . . . .	0 40	Cap <sup>t</sup> Charles Basden William Smith . . . . .	0 20
Thomas Pinekney . . . . .	0.60	S. Nathaniel Johnson Kn <sup>t</sup> Franeis Noble. Gen <sup>t</sup> . . . . .	0.30
Cap <sup>t</sup> George Reiner . . . . .	400 <sup>a</sup>	John Alexander William Smith . . . . .	200
Joshua Wilkes . . . . .	100 <sup>b</sup>	John Alexander David Maybank . . . . .	50
Robert Fenwieke . . . . .	0 60	S. Nathaniel Johnson John Alexander . . . . .	0 30
James Gilehrist . . . . .	100 <sup>b</sup>	John Alexander. Andrew Baugh . . . . .	50
Franeis Blanchard . . . . .	0.40	Peter La Salle John Thomas . . . . .	0.20
Roger Clare . . . . .	0 30	Charles Barsden. Henry Hillory . . . . .	0.15
William Crosslye . . . . .	0 30	Charles Barsden Henry Hillory . . . . .	0.15
Daniel Horry . . . . .	0 50	Isaac Majeique Peter Girard . . . . .	0.25
Daniel Rawlinson . . . . .	0.60	Nieholas Marden Franeis Fiddling . . . . .	0 30
Robert Mathews . . . . .	0.60	Anthony Shory. Franeis Fiddling . . . . .	0 30
William Walesley . . . . .	0.60	William Williams John Lovell . . . . .	0 30
Riehard Abram . . . . .	0.60	William Popell Nicholas Barlysom . . . . .	0.30
John Palmer . . . . .	0.40	Joseph Palmer John Guppell . . . . .	0 20

<sup>a</sup> \$ 8000.

<sup>b</sup> \$ 2000.

Christopher Linkley, and Edmund Medlicott, taken before the Council on the 29th of August, 1692, in the case of a vessel claimed by Jonathan Amory, which probably explains the matter. In these depositions they state that they had been on a cruise against the French under a commission from King William and Queen Mary, and had captured the vessel in question and taken her into Jamaica, where she was condemned and sold as a prize. This is doubtless the foundation of Randolph's story of pirates running away with a vessel from Jamaica, and bringing her into Charles Town, and also of Hewatt's story of the forty pirates which has been seized upon and amplified by other writers. Perry, Pinckney, Linkley, and Medlicott, all young men under twenty-five years of age, had been engaged in an adventure under a Royal commission, as privateers in times of open and flagrant war between England and France. Privateers under a regular commission from William and Mary were very different from the piratical crew encouraged by Charles II. They were no more pirates than were the sailors of the allied fleet who about the same time burnt the French ships in the bays of Cherbourg and La Hogue.

Poe's charming romance of the *Gold Bug*, in which the scene of the search for Kidd's buried treasure is laid upon Sullivan's Island, has given currency to the idea that Kidd at some time visited Charles Town, and it has been said that a number of his crew were in Carolina.<sup>1</sup> But the authority referred to does not, we think, bear out the suggestion. Two affidavits are found in the old book of miscellaneous records in Probate office, Charleston, just referred to, made by two mariners — one of New York — then in this province, to the effect that they knew one Samuel Bradley, who appears to have been charged

<sup>1</sup> *The Carolina Pirates and Colonial Commerce* (Hughson), 46.



with being one of Kidd's men. They depose that they had been passengers on board the ship *Adventure*, Kidd, commander, in a voyage from Madagascar to the Island of St. Thomas, and had seen Bradley on the ship in a weak and sickly condition, taking no part with the piratical crew, but, on the contrary, continually protesting against their course; for which he was ultimately put ashore on a rock on the Island of Antigua. There was probably no port on the coast of America—and, for that matter, in Europe—then, in which mariners who at some time had been engaged in piracies could not be found, pardoned or unpardoned. So, too, the place of Kidd's hidden treasure is variously located all along the Atlantic and Gulf coasts.

Sothell had wisely attempted to incorporate the French into the political body of the colony, and to facilitate them in the settlement of the hitherto unoccupied lands on the Santee; but Ludwell pursued a reactionary course in regard to these people. The Grand Council, on June 21, 1692, in issuing an order for the better observance of the Lord's Day by prohibiting the haunting of punch houses during the time of divine service, further ordered "that the French ministers and officers of their church be advised that they begin their divine service at 9 o'clock in the morning and about 2 in the afternoon of which they are to take due notice and pay obedience thereunto." The Huguenots complained to the Proprietors of the threats made their estates and marriages, whereupon the Proprietors wrote to the Governor and Council on April 10, 1693:<sup>1</sup>—

"The French have complained to us that they are threatened to have their estates taken from their children after their death because they are aliens. Now many of them have bought the land they enjoy of us, and if their estates are forfeited they escheat to us, and

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 176; Appendix, 437.

God forbid that we should [take] the advantage of the forfeiture, nor do we so intend and therefore have sent our declaration under our hands and seals to that purpose which we will shall be registered in the Secretary's and Registrar's Office, that it may remain upon record in Carolina, and be obliging to our heirs successors and assigns. They also complain that they are required to begin their Divine worshipping at the same time that the English doe, which is inconvenient to them in regard that severall of their congregations living out of Towne are forced to come and go by water, & for the convenience of such they begin their Divine Worshipping earlier or later as the tide serves, in which we would have them not molested. They Complain also that they are told the marriages made by their ministers are not lawfull because they are not ordained by some bishop and their children that are begotten are bastards. Wee have power by our patent to grant liberty of Conscience in Carolina. And it is granted by an act of Parliament here, and persons are married in the Dutch & French churches by ministers that were never ordained and yett we have not heard that the children begotten in such marriages are reputed unlawful or bastards and this seems to us opposite to that liberty of conscience their Majesties have consented to here, and we pursuant to the power Granted us have Granted in Carolina. Wee desire these things may be remedied and that their Complaints of all kinds be heard with favor and that they have equal Justice with Englishmen and enjoy the same privileges; it being for their Majesties service to have as many of them as we can in Carolina. Wee would have them receive all manner of just encouragement whatsoever," etc.

Ludwell was no more successful in his government than his predecessors. In attempting to appease both the Proprietors and the colonists, he satisfied neither. The Proprietors had abandoned the Fundamental Constitutions in name, but by their instructions they strictly retained their agrarian regulations and surrendered no power claimed for themselves. To gratify the leaders of the people in a measure, however, ampler provisions were made for granting them lands by the Governor, and the legislative privileges of the Assembly were defined and extended in cases in which the public peace and welfare required enactments, provided they did not "diminish or alter any powers granted



to the Proprietors.” It is evident that while Ludwell had refused the demands of the Assembly in the matter of the indemnity, he had lost the confidence of the Proprietors. “We are glad to hear that you gain on both parties,” they wrote, “and approve of your design to open their eyes. Avoid the snare Colleton fell into, who was popular at first; but the Goose-Creek men fearing the loss of their power offered him an excise for his support, and in return made him turn out seal deputies and disoblige others to please them; yet afterward called out against his avarice whereby he lost the opinion of the people. We hear they are playing the same game with you by offering a gift of a thousand pounds. James Moore is at the head of this faction. And in return you had an act of indemnity which you had not the power to grant. . . . We observe you say the Goose-Creek men are resolved to oppose all we shall offer; therefore they ought not to be employed. You say Sir Nathaniel —— has hopes for himself, were the government changed to the king. This cannot be from William, because he quitted the Leeward Islands on account of refusing to take the new oaths. Watch his actions.”<sup>1</sup> The Governor was thus distrusted by both parties.

Previously to Sothell’s administration, the enacting clause of all acts had run, “*by the Palatine and the rest of the true and absolute Lords and Proprietors of this Province by and with the advice of the nobility and commons in their Parliament assembled.*”<sup>2</sup> In Sothell’s time the word “nobility” had been omitted, and Ludwell, it appears, had advised the same omission. He had also assented to several acts which the Proprietors immediately annulled,

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 169. This allusion is to Sir Nathaniel Johnson, subsequently Governor, who had recently come into the province.

<sup>2</sup> See *Statutes of So. Ca.*, vol. II, pp. 40–73.



and thereupon recalled the permission they had given for the publication of a certain class of important laws until ratified by themselves in England. He had been empowered to grant lands and furnished with a form of indenture for that purpose. The opposition of the people finally induced him to propose to the Assembly another form of deed on terms that affected the interests of their Lordships. The Proprietors, dissatisfied with his conduct, recalled his commission.<sup>1</sup>

The Proprietors now went back again to the colonists for a Governor, and sent out a commission for Thomas Smith. He had, it will be remembered, been nominated as Governor to succeed Colleton; but had been superseded by Sothell. He had loyally stood by the Proprietors in all the controversies since his arrival in the colony, and had advised Colleton in proclaiming martial law against Berresford and the others, whom their Lordships designated as "the Goose-Creek men." He was himself one of the richest men in the colony, and had recently married the widow of John d'Arsens, Seigneur de Wernhaut, to whom the Proprietors had in 1686 granted 12,000 acres of land.

D'Arsens appears to have died before the grant was perfected, and upon Smith's marriage with D'Arsens's widow, he was allowed the benefit of the grant.<sup>2</sup> He was now made a Landgrave, as became a Governor, with the usual accompanying grant of 48,000 acres more. The Proprietors might well now congratulate themselves that they had committed the province to the care of one who was deeply interested in its welfare, and cognizant of its interests. Much was expected of his character, experience, and intimate knowledge of colonial affairs. But he lost courage at the popular ferment about the tenure of lands, payment

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 169, 170.

<sup>2</sup> *Coll. Hist. Soc.*, vol. I, 123.

of quit-rents, the naturalization of the Huguenots, the annulment by the Proprietors of the acts of Ludwell's Parliament relating to juries, and the election of representatives. He did not continue in office a year.<sup>1</sup> He was commissioned on the 29th of November, 1693,<sup>2</sup> as Governor of "Carolina," including both North and South Carolina. His instructions, like those of Ludwell, directed him, if practicable, to unite the colonies under one General Assembly, to which Albemarle County should send delegates. If this was, however, impracticable, he was to appoint a deputy for North Carolina.<sup>3</sup>

Governor Smith was enjoined to compel by law the collection of rents, and assume the responsibility of directing the Receiver General. But there stood, says Rivers, the violent James Moore and his coadjutors, determined not to pay. "We part with our lands on our own terms," reiterated their Lordships. "And we consider your deed invalid," rejoined the faction of the people, "because only some of you have set your hands and seals thereto." A number of the malcontents quitted the province, and it was thought unless others went peace could not be restored. At length Governor Smith, despairing of allaying the discontents and contentions, wrote to the Proprietors in October, 1694, that he and others intended to abandon Carolina and live in some other part of America; "that it was impossible to settle the country except a Proprietor himself was sent over with full power to heal grievances." Without waiting for their reply, he resigned, and Joseph Blake, the son of Benjamin Blake the emigrant, who had been made a Landgrave, was chosen by the Council to act in his stead until a new Governor should be commissioned.<sup>4</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 171.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 134.

<sup>3</sup> *Ibid.*

<sup>4</sup> Archdale, Carroll's *Coll.*, 101; *Hist. Sketches of So. Ca.* (Rivers), 172.

## CHAPTER XII

1694-96

GREAT changes had in the meanwhile taken place in England. James II had abdicated, and William and Mary had been proclaimed King and Queen in February, 1689. Of the original Proprietors, Clarendon, Albemarle, Lord Berkeley, Shaftesbury, Sir George Carteret, Sir William Berkeley, and Sir John Colleton were all dead. Earl Craven alone survived.

Clarendon had died at Rouen, in exile, on the 19th of December, 1674, and his share, which during his exile had been represented by his son, Lord Cornbury, had been sold to Seth Sothell (or Southwell) in September, 1681.<sup>1</sup>

Albemarle had died in retirement on the 3d of December, 1669; his son, the second Duke, died in 1688, without leaving issue; and his share had been in litigation in the King's Bench, Chancery, and House of Lords. It had just been adjudicated to be the property of the Earl of Bath, who was accordingly admitted as a Proprietor on the 12th of April, 1694.<sup>2</sup>

Lord Berkeley had failed to pay his quota towards the enterprise,<sup>3</sup> and he does not seem to have been concerned in its affairs after Shaftesbury undertook their management. In 1675 he was accredited ambassador extraordi-

<sup>1</sup> *Coll. Hist. Soc. of So. Ca*, vol. I, 105.

<sup>2</sup> *Public Records of So. Ca., Colonial*, vol. III, 122; *Coll. Hist. Soc. of So. Ca.*, vol. I, 135.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 100.



nary to the Court of Versailles, and died on the 28th of August, 1678. His son, the second Baron of Stratton, succeeded to his proprietorship. He died at sea the 21st of September, 1682.<sup>1</sup> The other Proprietors appropriated this share, under the forfeiture clause of their joint-stock associates, and conveyed it to Joseph Blake on the 11th of April, 1698.<sup>2</sup>

Shaftesbury, intriguing with Monmouth and joining in the "No Popery Cry," had been seized and committed to the Tower in 1681, from which he offered, if released, to retire to Carolina. He was allowed to escape and reached Amsterdam, where he died the 21st of January, 1683. His share was now held by his son, the second Earl, "a poor creature both physically and mentally."<sup>3</sup> It was represented, however, by Lord Ashley, the son of the latter, who afterwards became another famous Earl of Shaftesbury. Locke's connection with the province ceased with the fall of his patron.

Sir George Carteret, who had been created a baronet, died on the 13th of January, 1679, and was succeeded by his son, Sir George, then a boy of but ten years of age. During his minority the share was represented by the Earl of Bath. This second Sir George died just about this time, *i.e.* 1695, and was succeeded by his son, who afterwards became the Earl of Granville.<sup>4</sup>

Sir William Berkeley had been recalled from Virginia because of his severity in putting down Bacon's Rebellion, and, refused an audience by the King, had died, it was said, of a broken heart, on the 13th of July, 1677. He left no issue. There was great controversy over his share; the litigation in regard to it was not ultimately settled in

<sup>1</sup> Burke's *Peerage*.

<sup>2</sup> *Danson v. Trott*, 3 *Brown's Parl. Cases*, 452.

<sup>3</sup> *Encyclopedia Britannica*.

<sup>4</sup> Burke's *Peerage*.

the courts until 1729, the year of the surrender to the Crown.

In March, 1681, the other Proprietors write to the Governor in Carolina that Sir William was dead, but it was not known to whom his share belonged.<sup>1</sup> In May they write that Mr. Archdale, having purchased Lady Berkeley's proprietorship, had become one of the Proprietors.<sup>2</sup> And yet, in 1682, they were attempting to appropriate the share to themselves on the ground that it had lapsed under the provisions of the Fundamental Constitutions, and were only prevented from doing so by the order of the King in council on the 10th of December, 1682, made upon the petition of Viscount Hardinge, who claimed it as Sir William's heir at law. The order declared that the grant to Sir William had been made "without being subject to such lapse or avoidance."<sup>3</sup> Viscount Hardinge, however, gained nothing by his interference; for, as it turned out, Sir William had left a will by which he devised his eighth part of the province to his wife Dame Frances. After his death she had married Colonel Philip Ludwell, as we have seen, and the other Lords Proprietors, failing in their scheme of appropriating this share, on the 11th of April, 1684, four of them, to wit, the then Duke of Albemarle, the then Lord Carteret, the Earl of Craven, and Sir Peter Colleton, purchased it from Ludwell and his wife Dame Frances for £300, that is, probably, \$7500. For purposes of their own, however, they did not take the title to themselves, but the deed which they took conveyed the proprietorship to one Thomas Amy in fee. This Thomas

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 104.

<sup>2</sup> *Ibid.*, 106.

<sup>3</sup> *Colonial Records of No. Ca.*, vol. I, 340. Charles Berkeley, Viscount Fitzhardinge in Ireland and Earl of Falmouth in England, was the son of Charles, eldest brother of Lord John and Sir William Berkeley. *The Genesis of the United States*, Alex. Brown, 827, 828.

Amy was a grocer in London, probably a relation of Sir Peter Colleton, whose mother was a daughter of William Amy, Esq. Amy appears to have been an agent of the Proprietors in procuring people to go to the province, and for this purpose was industrious in meeting and treating them at the Carolina Coffee House in London.<sup>1</sup> For these services 12,000 acres were granted him in 1694.<sup>2</sup> Sothell dying in the same year without, as it was believed, heirs or assigns, the Proprietors made a further grant to Amy of the share of the Earl of Clarendon that Sothell had purchased, and also appointed him one of the Proprietors. They at the same time made him a Landgrave and granted him a barony of 48,000 acres more.<sup>3</sup>

Sir John Colleton was the first of the Proprietors to die. Upon his death, in 1666, he had been succeeded by his son Sir Peter, who was just now also dead, and the Colletons' share was represented by William Thornburgh, merchant, Sir Peter's executor, as guardian for his minor son, the second Sir John.<sup>4</sup>

The sole survivor of the original Proprietors was the old Earl of Craven, who, in his eightieth year in command of the Coldstream Guards, was ready to resist the foreign troops of the Prince of Orange, swearing that he would rather be cut in pieces than yield possession of his post, and only doing so at the command of James.<sup>5</sup> The

<sup>1</sup> *Danson v. Trott*, *supra*.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 137, 141, 142.

<sup>3</sup> *Danson v. Trott*, *supra*; *Coll. Hist. Soc. of So. Ca.*, vol. I, 141, 142. In the case of *Danson v. Trott*, it is said that Sothell was dead without heirs or assigns. But the fact was that he had left a will which was admitted to probate in North Carolina, where he died. Hawks's *Hist. of No. Ca.*, vol. II, 491. The proprietorship does not appear, however, ever to have been claimed by any one under his will.

<sup>4</sup> *Public Records of So. Ca., Colonial*, vol. III, 127.

<sup>5</sup> Macaulay's *Hist. of England*, vol. IV, 42.



stout old soldier was now in the eighty-seventh year of his age, but he still presided at the Board of Proprietors as Palatine.

The Proprietors, as we have seen, had in May, 1682, written that Mr. Archdale had purchased Lady Berkeley's share, and had become a Proprietor. This purchase was made in the name of Thomas Archdale, a minor, and the interest purchased was represented by his father, John Archdale.<sup>1</sup> It is impossible to reconcile the conflicting claims to this share. In the letter of May, 1681, the Proprietors recognize its purchase by Archdale as valid, and yet we find them in December, 1682, endeavoring to appropriate it to themselves as lapsed, and when foiled in this, they purchased it themselves in 1684 from Ludwell and Lady Berkeley, now Ludwell's wife, and took this second title in the name of Thomas Amy. And what is still more curious, they appear to have recognized the double title for years; for both Archdale and Amy sat at the Board of Proprietors with apparently title to no other share from April 11, 1684, to the assignment by them of Sothell's share to Amy in September 29, 1697.

However this may be, the Proprietors, on July 29, 1682, that is, just after his purchase of Lady Berkeley's share, commissioned Archdale to receive their rents due in North Carolina;<sup>2</sup> and thereupon he came out and remained in Albemarle apparently for some years. He was probably, in some degree at least, attracted to that place by his sympathy with the Quakers, he having become a member of the Society of Friends, "convinced and separated from his father's house," as he states, by the preaching of George Fox. That he contemplated the permanent settlement of

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 467; *Coll. Hist. Soc. of So. Ca.*, vol. I, 204.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 105, 106.

a portion of his family in North Carolina, and that one of his daughters did actually settle there as the wife of Emmanuel Low, to whom she was married in 1668, is proved, says Dr. Hawks, by existing records, as well as by the fact that some of their descendants remained there until recently, and perhaps are there to this day.<sup>1</sup> Archdale was in North Carolina in an official capacity in 1683, as Sothell, who was then the Governor there, was instructed by the Proprietors to communicate with him upon the subject of their letter.<sup>2</sup>

We have seen the great rewards the Proprietors had heaped upon Amy for the use of his name in holding the share they had purchased from Lady Berkeley, and for the "important services rendered by him" at the Carolina Coffee House, but it will appear a little later that Nicholas Trott of London,<sup>3</sup> who became his son-in-law, was not satisfied with the provincial title of nobility and a few acres of wild woods in payment of good and lawful money of the realm expended by Amy in "drumming" for the Proprietors, but upon the death of Amy demanded further compensation before the legal title held by Amy's heirs should be divested. This gave rise to the great suit of Danson against Trott, which reached, as we have said, the House of Lords.

The business of the province in England was at this time principally conducted by Archdale, Amy, and Thornburgh in the name and over the signature of the aged Earl of Craven as Palatine.

The Proprietors had originally organized themselves into a joint-stock company, to the capital of which each

<sup>1</sup> Hawks's *Hist. of No. Ca.*, vol. II, 378, 499.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 110.

<sup>3</sup> This Nicholas Trott of London was cousin of the famous Nicholas Trott, Chief Justice of South Carolina.

was to contribute £500, and £200 more annually. This capital was not, however, fully paid in; neither Lord Berkeley nor Sir William fulfilling their quotas. Archdale says, however, that about £12,000 was contributed. This was expended in fitting out the expedition for the settlement of the colony in 1669. No more capital appears to have been raised, though individual Proprietors are said to have laid out several thousand pounds to advance the colony. Upon this comparatively insignificant basis, an outlay of from \$240,000 to \$300,000 of our present money, the Proprietors had undertaken to establish a most expensive and aristocratic government in the wild woods of Carolina, rivalling the kingdoms of Europe in the grandeur and number of its officers, with its three orders, themselves representing the King, a nobility of their own creation, and an assembly of the Commons.

The extravagance of this attempt was perhaps not so manifestly striking, while the board—a trading corporation though it was—consisted only of famous Dukes, Earls, Lords, and Baronets who had already been engaged in the making and unmaking of Kings, and the overthrow and establishment of governments; but exile and death soon changed its composition, and the incongruity of the whole scheme began to expose itself more fully when commoners, some of whom were Quakers, and others mere adventurers, became purchasers and assignees of shares in the enterprise, the value of which had fallen below the small sums invested; an eighth share in the vast domain included in the grant, with power in the owners of turning themselves and others into a nobility, selling in the market at the paltry sum of £300 (from \$6000 to \$7500).

The board,—the Palatine Court, as it was styled,—with its immense province to settle and govern, had not even an office or chamber for the transaction of its business, but



met about, sometimes at Whitehall, sometimes at the Cock Pit, sometimes at Westminster, but usually at the private residence of some one of its members, as convenience suggested; nor do they appear to have had any regular time for meeting, nor rules prescribing the conduct of their business; indeed, much of the business was transacted without any meeting at all, but by means of papers drawn by their Secretary, and carried about for the signature of such of the Proprietors as could be found. During the time that the affairs of the province were under the management of Shaftesbury, with Locke acting as his secretary, the business was regularly and promptly attended to, whether the Constitutions they devised were proper or not; but after Shaftesbury's fall it was so neglected that, as has already appeared, it was usually a year before the Proprietors' approval to an act could be obtained.

The action of their Lordships then became careless and capricious. They had made it a part of their Constitutions that the eldest Proprietor or Landgrave, who should be personally in Carolina, should, of course, be the Palatine deputy, and yet they were offended when Yeamans, the only Landgrave in the province, assumed to act as such. So, too, while submitting, however reluctantly, to Sothell's assumption of the government, as the only Proprietor present, they refused to confirm his administration. West, their most faithful and efficient servant, was made to give way to Morton, because Morton had carried out a few new settlers. Then Morton was capriciously removed because they thought a stranger would be more subservient to their views than one who had identified himself with the colony; and Kyrle, an Irishman who knew nothing of the people or their wants, was sent to govern them. He dying immediately, they not unnaturally appointed one of the Colletons as Governor, but the people overthrowing

his government, they weakly allowed Sothell's administration, while refusing to support it. Then they sent Ludwell; but retained him only two years, when they recalled him, and appointed Smith, who in disgust threw up the office in less than a year.

Without counting the short rule of Kyrle, and the accidental administration of Quarry,—though Quarry's administration, short and accidental as it was, proved to be one of the most important,—in twenty-three years the Proprietors had had by these removals and appointments eleven different administrations. Smith, failing to compose the contentions in the province, might well appeal to the Proprietors that one of them should come out to see for himself and in their interest, and to bring with him full power to act in the pacification of the people and the settlement of the affairs of the province.

Governor Smith's appeal to the Proprietors to send out one of their number was received by them; but who was to come?

On the receipt of Governor Smith's letter, a meeting was called for the 16th of June, 1694, at Mr. Thornburgh's residence on Tower Hill; but there only came the old Earl of Craven, the Earl of Bath, Mr. Archdale, and Mr. Amy. It was resolved, therefore, to write to Lord Ashley, who was in the country, and pray him to arrange to attend upon this extraordinary occasion for the good of Carolina, which would require a full Assembly.<sup>1</sup> Lord Ashley, the second great Earl of Shaftesbury, the third in number, then but twenty-four years of age, had shortly before returned from foreign travel, and it was hoped that he might have been induced to undertake the mission; but he was just about to enter public life in England, his father's affairs there required his attention, and he did not respond to

<sup>1</sup> *Public Records of So. Ca., Colonial (MSS.)*, vol. V, 130.

the call upon him to go out to Carolina. He did not even attend the attempted meeting on the 23d of July. There were present at this meeting only the same persons, and they adjourned to the 28th, for which day "a court" meeting was called. But at this court the Earl of Bath was not present, and the court consisted only of Earl Craven, Mr. John Archdale, Mr. Thomas Amy, and Mr. Thornburgh. Of these the Earl was the only owner of the proprietorship which he represented. We have seen the dubious position of both Amy and Archdale; and Thornburgh was present only as the guardian of the minor, Sir John Colleton. So far from being able to send out one of the Proprietors themselves, it was found possible to get but one of them to attend a meeting to consider the subject, and he was an octogenarian.

In this dilemma Archdale was willing to make another visit to America, and though not in his own right a Proprietor, it was agreed between Amy, Thornburgh, and himself, with the assent of the Earl of Craven, that he should come; so the four, holding "a court," sat down and prepared his instructions, Archdale himself taking part in their preparation. They were careful to qualify and to explain Mr. Archdale's position by recording "that Mr. Archdale *being in the nature of a proprietor*," and that the present exigency of affairs in Carolina required, were the only inducements and reasons for his commission and instructions being so much larger than those of other Governors formerly had been.<sup>1</sup>

Archdale appears to have been a vain, amiable, quick-tempered man, of some cleverness for business, but without the political sagacity or ability of Sothell. Much has been said of his piety, and there is no reason to doubt its earnestness, though Randolph does accuse him of dishonest

<sup>1</sup> *Public Records of So. Ca., Colonial*, vol. III, 134.



practices as Governor. But whatever other principles of Quakerism he may have adopted, humility was not one of them; and a barony of 48,000 acres, which accompanied the title of Landgrave, was too much to forego because of scruples as to worldly titles. So he accepted both, as well also as the title of Governor, although the latter did require that he should be addressed as his "Honor."

Archdale was commissioned Governor both of South and North Carolina, on the 31st of August, 1694.<sup>1</sup> He was empowered to constitute a deputy both in South and North Carolina while he was in the province and also upon his departure from Carolina to England. He was given power and authority, with the advice and consent of three of the deputies of the Proprietors, to grant and sell lands, reserving a rent of 12 pence for 100 acres per annum, and to settle the quit-rents by patents or indentures in such manner as he and three deputies might think fit, receiving such commodities as the country afforded for the rent at a true value. He was also authorized to escheat lands and afterwards to sell or let them as might be best. He was farther empowered, with the advice and consent of the Council and General Assembly, to alter any former laws that should be thought fit to be changed, and to enact such others as might be reasonable for the better government of the province, the new laws to be as near as possible to the Fundamental Constitutions. Special directions were given in regard to the drawing of juries.<sup>2</sup>

It was nearly a year before Governor Archdale reached Carolina. He came by the way of Virginia, from which place, although clothed with discretionary authority, he wrote requesting specific power to appoint new deputies to the Proprietors, to abate the quit-rents in arrear, and to

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 138.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 389, 390.

sell land. His request was granted, and where he needed guidance he was referred to the instructions sent to Ludwell. He was given authority to settle all disputes concerning lands, to sell at £20 per thousand acres, the land near the settlements, and £10 for the same quantity in the interior; to take care of the Indians as he thought best; to build new towns; to fortify Charles Town and grant it a charter and permanently to settle the government by examining the Fundamental Constitutions, finding what would be acceptable to the people, and proposing a new set to the Proprietors for their confirmation.<sup>1</sup> The price of land, it will be observed, was thus greatly reduced; from \$1 an acre, lands near the settlement were now offered at from 50 cents to 40 cents an acre; and in the interior at from 20 cents to 25 cents.

Having procured these additional instructions, Governor Archdale, at length, on the 17th of August, 1695, entered upon his government at Charles Town. He spent the first months endeavoring to allay "the heats" of the people, and selecting his Council. He brought out with him for this purpose blank deputations, in the use of which the Proprietors recommended him to observe care, "favor to be shown to those who have been the greatest benefactors to the country."<sup>2</sup> He prided himself no little upon the moderation and judgment with which he executed this power. "My power," he says, "was very large, yet did I not wholly exclude the High Church party at that time out of the essential part of the government, but mix'd two Moderate Church-men to one High Churchman in the council whereby the ballance of government was preserved peaceable and quiet in my Time, and so left and continued several years whilst Blake whom I left Gov-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 179, 180.

<sup>2</sup> *Ibid.*, 138.

ernour lived.”<sup>1</sup> The Council he thus appointed and “mixed” were Joseph Blake, whom he describes as “accounted in some measure a dissenter,”<sup>2</sup> Stephen Bull, James Moore, Paul Grimball, Thomas Cary (his son-in-law), John Berresford, and William Hawett.<sup>3</sup> All former judges of the courts, officers of the militia, and justices of the peace were continued in their respective offices.<sup>4</sup> Having arranged these matters to his satisfaction, he summoned his first Parliament. “When I arriv’d,” he says, “I found all matters in great confusion and every faction apply’d themselves to me in hopes of relief; I appeased them with kind and gentle words and so soon as possible call’d an assembly.” Upon opening the Assembly, he addressed them as “Friends and Representatives of the People,” and spoke to them of the occasion of his coming, told them that upon the application for some Proprietor to come over, Lord Ashley had been nominated, but his affairs not permitting his Lordship’s coming, he had been induced to do so. That he was endued with a considerable power and trust, and he hoped faithfully and impartially to answer their expectations. “And I believe I may appeal to your Serious Rational Observations whether I have not already so allay’d your Heats as that the disgusting Titles thereof are so much withered away, and I hope this Meeting with you will wholly extinguish them so that a solid Settlement of this hopeful Colony will ensue,” etc. Now that the Assembly had heard the Proprietors’ intentions in sending him hither, he advised them to proceed soberly and mildly.

<sup>1</sup> Archdale’s *Description of Carolina* (1708); Carroll’s *Coll.*, vol. II, 112, 113.

<sup>2</sup> *Ibid.*

<sup>3</sup> Hewatt’s *Hist. of So. Ca.*, vol. I, 130; *Coll. Hist. Soc. of So. Ca.*, vol. I, 142.

<sup>4</sup> Hewatt, vol. I, 130.



The Assembly replied, thanking Almighty God for his Honor's safe arrival, and returned him most sincere and hearty thanks for the progress he had already made since his arrival towards the settlement of the place; for his candid expressions and the good favor and great kindness shown to the people, and assured him of their hearty endeavor to the attaining of such a settlement as would redound to the honor of the Lords Proprietors and the happiness of the people.

"But Courteous Reader," says Archdale, "after this fair Blossomin Season to produce Peace and Tranquility to the Country some endeavor'd to sow Seed of Contention thereby to nip the same; insomuch that they sat six Weeks under Civil Broils and Heats; but at length recollecting their Minds into a cooler Frame of Spirit my Patience was a great means to overcome them so that in the conclusion all Matters ended amicably."<sup>1</sup>

These remarks, says Rivers, are applicable to both his parliaments, but Archdale did not expend much of his patience upon the first, which was dissolved on the 29th of November, after a session of a few weeks. Upon opening this Parliament he told the Assembly that the Proprietors required the jury act to be changed, so that the names of the jurymen should each be on a single piece of parchment and not by twelves. He next informed them that the price of selling land was reduced to only half the former price, and bade them remember the Proprietors had borne the expense "of several thousand pounds" out of their own pockets in settling the province. As he had spoken to them of his "many dangers and hardships" by land and by water, incurred only for their benefit, the Assembly immediately gave him the opportunity he seemed to desire to benefit them, and earnestly solicited him to

<sup>1</sup> Archdale's *Description*, Carroll's *Coll.*, vol. II, 101-103.

remit the arrears of rent, which were now a grievous burden upon all the people. To their surprise he refused to do so except on hard conditions.<sup>1</sup> This at once led to a rupture with the Assembly, which was dissolved. Immediately upon its dissolution, however, Jonathan Amory, the Speaker, presented a petition in behalf of himself and the people at large, praying the summoning of another, to consist of thirty representatives. Archdale agreed to this and on the 30th of November, the day after he had dissolved the Assembly, issued a proclamation for the freemen of the colony to meet on the 19th of December, at Charles Town, "then and there by a majority of their voices to agree to and ascertain the number of their representatives for this part of the Province, to consult and advise with us about making such laws as shall be necessary for the safety and defence of this Province." He professed to do this in compliance with the request of the "modest and reasonable members of the Commons and other well meaning inhabitants," and not at all to please "the obstinate majority" who had just defeated his designs for the peace of the province.<sup>2</sup>

Of the thirty representatives on which the people decided, the twenty for both Berkeley and Craven were elected at Charles Town, and the ten for Colleton at Captain Bristow's plantation in that county. There were no Huguenots among the representatives who assembled in the Parliament January, 1696. A petition was again made for an abatement of the debts due to the Proprietors. Archdale and his Council proposed to remit all arrears to Michaelmas, 1695, provided the remaining debts were secured, the town fortified by means of taxes and measures taken for the ready payment of quit-rents for the future.

<sup>1</sup> *Hist. Sketches* (Rivers), 180.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 181; Appendix, 439.

The Assembly first demanded an accurate statement of accounts between the people and Proprietors. Whilst the Governor thus bargained when he ought generously to have given, he requested on his part a clause to be inserted in the militia act in behalf of "tender conscience," which was unanimously refused.<sup>1</sup>

At length "business proceeded," it was said, "more in the spirit of compromise," and some important measures were passed. The first was an act to determine the price of land, the form of conveyances and the manner of recovery of rents for land, and the prices of the several commodities in "which the same might be paid."<sup>2</sup> By this act simpler forms of conveyancing were prescribed, and payment of the purchase money or rent reserved might be made in current money of the province, or in indigo, cotton, silk, rice, beef, or pork (in barrels or half-barrels), or in English peas. Six appraisers were to be appointed, three of whom were to be nominated by the Governor and Council and the other three by the Commons, to fix and determine the value at which these commodities should be received in payment. Lands rented were to be held at a penny an acre, or the value thereof in the above commodities. In case of non-payment of the quit-rents the Receiver of the Lords Proprietors might distrain, and bring an action in court for recovery. Land should not revert to the Proprietors unless payments were delayed for seven years. All former grants or purchases from authorized agents, notwithstanding any legal defects in the conveyances, were confirmed to their possessors.

To encourage the peopling of the colony, grants were to be given without delay. New settlers were exempt from rent for five years. To all who wished to purchase, the

<sup>1</sup> *Hist. Sketches* (Rivers), 182, citing *Journals*.

<sup>2</sup> *Statutes of So. Cai.*, vol. II, 96.



price of land was reduced as allowed to £20 per 1000 acres, with a rent of 12 pence per 100 acres, and not forfeitable till non-payment for twenty-one years.

Several acts relating to the domestic affairs of the colony were passed. The settlements so far were principally upon the rivers and bays with which the low country of Carolina is everywhere intersected, and transportation was almost entirely by water; boats and canoes were not only, therefore, peculiarly valuable as the means of transportation, but were also peculiarly liable to theft: an act was passed on the subject, providing specially for the punishment for the stealing or letting loose of any boat or canoe. By this law a white freeman or servant was to be punished by a fine, whilst the Indian for the same offence was included with the slave and was to receive thirty-nine lashes, and for a second offence was to have his ears cut off.<sup>1</sup>

A curious act was one providing "for the destroying of unmarked cattle." A considerable business of the colony at this time was in the rearing of "black cattle." Cattle turned loose in the rich swamps, while deteriorating in size, multiplied in great numbers. These were watched and marked by their owners, and when fit for market were butchered and salted and shipped to Barbadoes and other West India islands. This act recited that a great number of trees had been blown down by the violence of a late hurricane, which made the woods difficult to be traversed, whereby many persons had been prevented from bringing their cattle to their pens and marking them as they were accustomed, and that, in consequence, many evil-minded persons had taken upon them to kill and destroy great numbers of them. The act provided for a system of licensing persons to kill unmarked cattle, and punishing

<sup>1</sup> *Statutes*, vol. II, 105.

any one for so doing without a certificate from a Justice of the Peace.<sup>1</sup>

Archdale prided himself greatly upon his management of Indian affairs and upon the humanity with which he treated them; and his administration has been commended particularly on this account.<sup>2</sup> And yet we have just seen the Indian punished by whipping and mutilation for stealing boats, for which the white man was only fined, and shall further see among the enactments of this mild administration in regard to these poor people one requiring "every Indian bowman capable of killing deere," before the 25th of November in every year, to bring to such person as the Governor should appoint to receive the same "one woolfes skinn one tigers skinn or one beare skinn, or two catt skinns," and if any one did not do so, the Cacique or Chief of his nation was required to bring him to Charles Town before the 25th of December, there to be severely whipped on his bare back in the sight of the inhabitants of the said town, which whipping, the act says, should be in the place of that skin which the Indian ought to have given to the receiver.<sup>3</sup> In one respect, however, Archdale moderated the restriction against the Indians. Sothell had forbidden, under severe penalties, firearms and rum to be given them. Archdale allowed them a pound of powder and thirty bullets for each destructive beast they killed beyond the yearly tax.

During Smith's short administration, an act had been passed in 1693 regulating public houses; but the act has been lost and there is no copy of it. So Archdale has the honor of the first act of which we have a record regulating the sale of liquor in Carolina. The act prohibits the sale,

<sup>1</sup> *Statutes*, vol. II, 106.

<sup>2</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 132.

<sup>3</sup> *Statutes*, vol. II, 108.

except by license from the Governor, of any beer, cider, wine, brandy, rum, punch, or any strong drink whatsoever, under the quantity of one gallon at one draught; and puts in force all the laws of England, both statute and common, concerning the abuses and disorders of taverns.<sup>1</sup>

A beneficent measure of Archdale's administration was the inauguration of provision for the poor. Commissioners were appointed to receive contributions and gifts of charity, and, though to a very small extent, to draw from the public treasury for the support of the indigent.<sup>2</sup>

Archdale showed more humanity in settling disputes between the Indians, and in his conduct to those at a distance, than in the laws he provided for governing those who were near. He released from captivity four Indians and sent them back to their tribe near St. Augustine with a friendly letter to the Spanish Governor, who was induced thereby to act kindly in return to some Englishmen shipwrecked on the Florida coast. In another instance his taking under his protection a party of Indians at war with others was rewarded by the saving of a party of fifty-two New Englanders who had been cast away at Cape Fear, for whom Archdale sent a vessel and brought them safely to Charles Town.<sup>3</sup> These were the founders of Wappetaw Congregationalist Church, in what was afterwards Christ Church parish, and whom we shall find in a few years resisting the landing of the French at Sewee.<sup>4</sup>

Archdale, yielding to the opinions of the people, left the Indian trade and the condition of the Huguenots as he found them, but advised, with regard to the latter, the plan which was afterwards adopted. He seemed afraid

<sup>1</sup> *Statutes*, vol. II, 113.

<sup>2</sup> *Ibid.*, 116.

<sup>3</sup> Archdale, Carroll's *Coll.*, vol. II, 108, 109.

<sup>4</sup> *Ibid.*, 105, note; Howe's *Hist. Presb. Ch.*, 119.



lest he should do too much, and leaving many things undone which required attention, he hastened from the colony, appointing, under the power of his commission, his friend, Joseph Blake, Deputy Governor.<sup>1</sup>

Upon Archdale's departure, the Commons were profuse in their acknowledgments of their appreciation of his services. Through Jonathan Amory, their Speaker, they made an "humble address and recognition of thanks" to the Lords Proprietors for their gracious condescension in sending him out with such large and ample powers, for the remission of some arrears of rents, and for the undeniable manifestation of their Honor's parental care; and to Archdale himself for the prudent, industrious, and indefatigable care and management of the powers intrusted to him. The acts of grace he had so reasonably condescended to grant had removed all doubts, jealousies, and discouragements of the people, and had laid a most sure foundation on which might be erected a most glorious superstructure,<sup>2</sup> etc. These were but empty words. The radical differences between the Proprietors and the colonists were not removed and were soon to break out afresh. Archdale, however, having arranged matters to his own satisfaction, received the address with great complacency, and promised to present it to the Proprietors on his arrival in England.<sup>3</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 185.

<sup>2</sup> Archdale, Carroll's *Coll.*, vol. II, 104.

<sup>3</sup> Hewatt, vol. I, 137.

## CHAPTER XIII

1696-99

JOSEPH BLAKE, whom Archdale under his power appointed Deputy Governor upon his departure, was the son of Benjamin Blake, the immigrant who had come out with Axtell and Morton. He had been a Deputy, one of those whom Sothell had removed, and whose return to office the Proprietors had required; and as Deputy he had been chosen by the Council as Governor, when Smith gave up the office in disgust. He had already, therefore, had a short administration, and was now about to enter upon the longest term of any but Governor West's, whose administration, indeed, his very much resembled in its quiet, peaceful, and useful conduct of affairs. On the 25th of April, 1697, the Proprietors made him a Landgrave and expressed their satisfaction at his appointment by Mr. Archdale,<sup>1</sup> — an appointment, however, which, as we shall see, they afterwards found it convenient to disown.

The most important act of his administration was the naturalization and enfranchisement of the Huguenots. The antipathies of the English colonists to the French emigrants — because of their nationality refugees from their country though they were — had at first been very great; but these now began to abate. From the quiet and inoffensive behavior of the Huguenots, their industry and success in the settlement of a part of the province

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 141.

which had hitherto been avoided by the English, more kindly feeling began to be entertained in regard to them. Though the Treaty of Ryswick had not yet been actually made, the opposition of France to the recognition of William was gradually subsiding, and the war between England and France was nearing an end. This, no doubt, in a great measure tended to soften the sentiment of hostility to the French in Carolina. At this favorable juncture, by the advice of the Governor and other friends, the Huguenots petitioned the General Assembly to be incorporated with the freemen of the colony, and to be allowed the same privileges and liberties with those born of English parents. The Assembly listened to the appeal, and adopted "*an act for the making aliens free of this part of the province and granting liberty of conscience to all protestants.*" The preamble to this act recited that persecution for religion had forced some aliens, and trade and the fertility of the province had encouraged others, to resort to the colony, who had given good testimony of their duty and loyalty to his Majesty and the Crown of England, of their fidelity to the Lords Proprietors, of their good affections to the inhabitants, and by their industry, diligence, and trade had very much enriched and advanced the settlement; and the act provided that all alien inhabitants of the province should be entitled to enjoy the same privileges as those born of English parents, and to hold lands and claim the same as heirs or by their own purchase, upon the condition that such persons should within three months petition the Governor and Lords Proprietors for the benefit of its provisions, and should also make oath of allegiance to his Majesty King William. The act names and enfranchises those who had joined in the petition to the Assembly. It went on also further to provide that as "several" of the present inhabitants had transported



themselves into the province in hopes of enjoying the liberty of their conscience according to their own persuasion under the Royal charter of King Charles the Second, of blessed memory, all Christians who were then in the province, or might thereafter come (Papists only excepted), should enjoy the full, free, and undisturbed liberty of their consciences, and exercise their worship according to the professed rules of their religion without let or hindrance.<sup>1</sup>

Blake had thus easily induced the Assembly to do, of their own accord, this justice to the Huguenots which Sothell had endeavored to force upon them by his authority, and Archdale had not ventured to ask. He had secured them equal rights and representation with Englishmen.

Governor Archdale had not availed himself, to any great extent, of the powers in his commission to alter existing laws. Upon his return to England, the Proprietors themselves, however, took up the subject. In the meanwhile, the old Earl of Craven, the third Palatine, had died April 9, 1697; and John Granville, Earl of Bath, who had just established his title to the original share of the Duke of Albemarle, being the eldest of the Lords Proprietors, succeeded him as fourth Palatine. The proprietorship of Earl Craven had descended to his son William, Lord Craven.<sup>2</sup> The Proprietors had, on the 22d of August, made Thomas Amy a Landgrave;<sup>3</sup> but they wished now to transfer the share which he held in trust, *i.e.* that purchased from Lady Berkeley, to some person likely to strengthen their interest at court, yet not to lose so valuable a person, they transferred to Amy

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 131.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 141; Collins's *Peerage*, vol. VII, 146.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 141, 142.

the proprietorship of Seth Sothell, which they had appropriated,<sup>1</sup> and, for the present, transferred the trust in the Berkeley share to Mr. Thornburgh, who now represented at the board not only the Colleton share, but this as well.<sup>2</sup> The imbecile Earl of Shaftesbury was represented by his son Anthony, Lord Ashley; and the minor Lord Carteret by the Earl of Bath. The board was thus reduced to six members: the Earl of Bath, Lord Craven, Lord Ashley, and Messrs. Thornburgh, Amy, and Archdale. Thus constituted, it made another effort to impose the Fundamental Constitutions, but in a revised form. With the aid of Major Daniel and Captain Bellinger, who were in England,<sup>3</sup> the articles were reduced to forty-one by the omission of those relating to manors and leet-men, the cumbersome system of courts and their dignitaries, etc. The new Constitutions made no alterations in matters of religion, still provided for the creation of Landgraves and Caciques to form the Upper House of Parliament, limiting them, however, to half the number of the Commons, made the Governor and Council the Palatine Court, and continued to proclaim that property was the foundation of "all power and dominion in Carolina." These Constitutions were signed April 11, 1698, by Bath, Palatine, Ashley, Craven, Thornburgh, and Amy.

The nobility which, under the Royal charter, the Proprietors were empowered to institute, as we have before pointed out, was intended to be a provincial nobility. The authority given the Proprietors to confer marks of favor and titles of honor was explicitly limited to such of the inhabitants of the province as should merit such rewards.<sup>4</sup>

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 143.

<sup>2</sup> *Danson v. Trott*, *supra*.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 145.

<sup>4</sup> *Ante*, p. 61.

But regardless alike of the purpose and limitation of their authority, the Proprietors had, up to this time, conferred the title of Landgrave upon no inhabitant of the province except as an appendage or qualification to that of Governor, in the cases of West, Smith, and Blake. The eleven Landgraves had been appointed while they were in England or Barbadoes, from favor or for services rendered in those places, such as Locke's for drawing the Constitutions, as Axtell's and Morton's in inducing immigration, and as Amy's at the Carolina Coffee House. To propitiate the opposition to the Constitutions in Carolina, the Proprietors fell upon the plan of putting these titles of nobility within the reach of the colonists by purchase. They sent out the new Constitutions by Major Robert Daniel, the same Robert Daniel they had excluded from the general pardon because of his connection with the revolt against Colleton in 1692, and with them they sent also patents for six Landgraves and eight Caciques, to be sold to such persons of worth as Landgrave Morton and he should deem worthy. They were to receive from each Landgrave £100 (equal to, probably, \$2000), and from each Cacique £50 (\$1000).<sup>1</sup> Captain Edmund Bellinger purchased a patent for Landgrave in England, for which he was to pay £100 in Carolina, and one John Bayly purchased another, for which he was to pay £100 in Ireland.<sup>2</sup> Robert Daniel was made a Landgrave without purchase. As a still more substantial favor, the Proprietors made over to Governor Joseph Blake the proprietorship of Lord Berkeley's which they had appropriated. The grant bears date the same day as the Revised Constitutions.<sup>3</sup>

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 155.

<sup>2</sup> *Ibid.*, 147.

<sup>3</sup> *Danson v. Trott*, *supra*.



The Assembly in Carolina were, however, not so easily to be cajoled. After several weeks had passed, the Assembly requested the Governor and Council to inform them if they had power to alter and amend the proposed form of government, and were told they had not. They then appointed a committee, consisting of Captain Job Howes, Ralph Izard, and Dr. Charles Burnham, to look into the matter. The committee reported, denying legislative power to Landgraves and Caciques as an order; recommending that baronies be reduced to a smaller extent of land; demanding that, throughout the colony, lands should be secured to the people at the present rate of rent and purchase, and that no freeholders of a certain quantity of land should be liable to arrest in civil cases. These demands the Proprietors refused, and the Constitutions were again laid aside.<sup>1</sup>

Edward Randolph, the Collector of the King's customs in America, had been complaining of the neglect and violation of the navigation acts and of the favor shown pirates not only in Carolina, but in all the colonies, had been urging the King to suppress all the Proprietary governments, and had suggested a scheme for consolidating all the English provinces. South Carolina and the Bahama Islands he recommended should be put under his Majesty's immediate authority; that North Carolina should be annexed to Virginia; the three lower counties of Delaware to be annexed to Maryland; the province of West Jersey to Pennsylvania; East Jersey to New York; and Rhode Island to Massachusetts.<sup>2</sup> This grand scheme for the reduction and consolidation of the colonies did not succeed; but his agitation of the subject caused the passage of an act of Parliament, in 1695, for preventing frauds and

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 187.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 141.

regulating abuses in the plantation trade. This act, which was a reënactment of the navigation laws in more stringent form, required the Proprietors of all the Proprietary governments to submit to the King, for his Majesty's approval, the appointments of Governors they proposed to make, and the Governors when so appointed were required to take oaths to observe the acts in regard to the plantation trade; and all officers appointed by the Governor to perform duties under these acts were required to give security to the commissioners of customs in England.<sup>1</sup>

Randolph saw, even at this early day, that resistance to the navigation laws would end in independence, and believed that even then that was its purpose. He thought the government in America too loose, and desired to have their bonds to that at home drawn in and strengthened. He advised that fit persons should be appointed Governors of Carolina and Pennsylvania, to prevent the illegal trade carried on by Scotchmen and others in vessels belonging to New England and Pennsylvania; and that a Court of Admiralty with a Judge, a Register, a Marshal, and an Attorney General should be appointed in each colony to enforce the act of Parliament just passed to prevent frauds in the plantations.<sup>2</sup> The Lords of Trade approved his suggestion as to the establishment of Courts of Admiralty, and directed him to nominate fit persons for these offices.<sup>3</sup> He recommended the appointment of one person as Attorney General for the colonies of Virginia, Maryland, Pennsylvania, North Carolina, and West Jersey; of another, for Massachusetts, Rhode Island, and New Hampshire; and of another, for New York, East Jersey, and Connecticut. He made no recommendation for South Carolina.<sup>4</sup>

<sup>1</sup> *Statutes of the Realm*, vol. VII, 103.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 461.

<sup>3</sup> *Ibid.*, 462, 463.

<sup>4</sup> *Ibid.*, 463, 464.

He again addressed the commissioners on the 10th of November, 1696:<sup>1</sup> —

“The chief end of granting these vast tracts of land (now called proprieties) to noblemen and others,” he wrote, “was doubtless to encourage the first undertakers to plant & improve them for the benefitt of the Crowne, & to be always subject & depending on England & conformable to the Laws thereof. Great numbers of people are now seated in some of these proprieties but have been long endeavoring to break loose & set up for themselves having no sort of regard to the Acts of Trade, and discountenancing appeals from their Courts to his Majesty in Councill. The persons appointed by the Proprietors to be their Governors are generally men of very indifferent qualifications for parts & Estates. Their maintenance is considerable which renders their Government precarious also,” etc.

But it was not only in regard to the customs that Randolph complained. He was most sweeping and reckless in his charges against the colonies for harboring pirates. The Bahama Islands, of which Nicholas Trott was then Governor, had been and were, he said, a common retreat for pirates and illegal traders. Charles Town in Carolina, of which Mr. John Archdale, a Quaker, was Governor, as one of the Lords Proprietors during his son’s minority,<sup>2</sup> was free for trade to all places. He wrote: —

“They trade to Carasaw,<sup>3</sup> from whence the Manufacture of Holland is brought to Charles Towne and carryed by New England men and other illegal traders to Pennsylvania Boston etc: and returns are made for them in Plantation Commodities which are carryed from Carolina to Carasaw and thence to Holland; about 3 years ago 70 pirates having run away with a vessel from Jamaica came to Charles Towne bringing with them a vast quantity of Gold from the Red Sea, they were entertained and had liberty to stay or goe to any other place. The vessell was seized by the Governor for the

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 466.

<sup>2</sup> It will be recollected Archdale had taken the title to Sir William Berkeley’s share, which he had purchased from Lady Berkeley in his son’s name.

<sup>3</sup> Curaçoa?



Proprietors as a Wreck & sold, they have no regard to the Acts of Trade. The present Governor (Archdale) is a favourer of the illegal trade," etc.

The inlets of Carituck and Roanoke, he charged, were the resorts of pirates and runaway servants from Virginia. The Governor of Pennsylvania entertained pirates from the Red and South seas. Providence, Rhode Island, was a free port to illegal traders and pirates from all places, etc.

The Commissioners of Trade called on the Proprietors of the various colonies to answer these charges, and the Proprietors of Carolina, Pennsylvania, the Jerseys, and Connecticut did so. Protesting their loyalty, but resting their rights under their grants, they claimed that their charter implied the grant of the Admiral's jurisdiction and power of erecting Courts of Admiralty and constituting judges and officers for them. The reason they had not hitherto erected such courts was that under the acts of Parliament violations of the navigation acts were cognizable in the common-law courts, and the establishment of Courts of Admiralty would have occasioned salaries and other great and expensive charges. They apprehended that there was no necessity for such courts, unless for the condemnation of prizes, few or none of which had been brought into the provinces. They were, nevertheless, ready and willing, they said, to erect such courts if required.<sup>1</sup>

The Board of Trade, however, insisted upon his Majesty's right to his own Courts of Admiralty, notwithstanding the charters; whereupon the Proprietors wisely gave up their claim of right and prayed that the Governors of the several provinces might have commissions to be Vice Admirals with the same powers as the Governors of the provinces under Royal authority.<sup>2</sup> But this his Majesty was not willing to

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 471.

<sup>2</sup> *Ibid.*, 473.

allow. The Board of Trade preferred to look after the enforcement of the navigation acts themselves, and to appoint their own Courts of Admiralty. In the persons to constitute the court, however, the preferences of the Proprietors were evidently consulted. Sir Charles Hedges, Judge of the High Court of Admiralty, on the 29th of April, 1697-98, appointed as admiralty officers for South Carolina Joseph Morton, late Governor, Judge; Thomas Cary, Archdale's son-in-law, Register; Jonathan Amory, Speaker of the Commons, Advocate, and R. Pollinger Marshal.<sup>1</sup>

Another turn was taken against the Proprietary governments. The act of 1695 had required that his Majesty's approval should be obtained for the appointment of their Governors, but now it was further required that the Governor of any Proprietary province should give bond in a penalty of not less than £2000 nor more than £5000 (*i.e.* from \$40,000 to \$100,000), according to the trade of the province, for the faithful execution of the navigation acts. The Proprietors protested that this was unnecessary since the recent act requiring the approval of the King for the appointment of a Governor. The objection was overruled and the bond was required.<sup>2</sup>

The Proprietors now found it necessary to pay some attention to their courts in Carolina, and to provide something better for the administration of justice than a Judge and Sheriff combined, without a prosecuting officer. They appointed and sent out a Chief Justice and an Attorney General. The Attorney General was first commissioned. This was the same Nicholas Trott who had been Governor of the Bahamas, and whom Randolph had denounced as a harborer of pirates; and as if in defiance of this accusation,

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 207.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 476, 477, 557.

Trott was not only appointed Attorney General, but Advocate General of Admiralty and Naval officer. He was commissioned as Attorney General February 5, 1697-98, and a month after his instructions were made out. His duties were prescribed to be: to communicate such instructions to the Governor and Council as were requisite; to peruse the acts of Assembly before confirmation, so as to see that they were not repugnant to the laws of England, and to report the same to the Lords Proprietors. He was to prosecute and take care of all matters criminal; to advise and consult with the Collectors of the King's customs, and the better to secure the King's customs they constituted him also Naval officer. He was instructed to inquire into the Indian trade and its abuses. He was to be allowed access to all public records in the grantings of office, and of all documents whatsoever. His salary was fixed at £40 (*i.e.* about \$800) per annum. As Naval officer he was to make entries of all ships inward or outward bound, to obey all instructions and directions from the Proprietors or the Commissioners of the Customs.

The Chief Justice was Edmund Bohun, who was commissioned on the 22d of May, 1698. He was one of the few settlers in Carolina who was entitled by birth to be called a cavalier. He was of the family mentioned by Macaulay as one of those untitled families descended from knights who had broken the Saxon ranks at Hastings and scaled the walls of Jerusalem.<sup>1</sup> Mr. Bohun was a man of

<sup>1</sup> "There were untitled men well known to be descended from knights who had broken the Saxon ranks at Hastings and scaled the walls of Jerusalem. There were Bohuns Mowbrays De Veres nay kinsmen of the House of Plantagenet with no higher addition than that of Esquire and with no civil privileges beyond those enjoyed by every farmer and shopkeeper." — *History of England*, vol. I (ed. Hurd & Houghton), 1878, 42; *Introductory Memoir to Diary and Autobiography of Edmund Bohun*.



learning; he was the author, compiler, editor, or translator of many books,<sup>1</sup> but he was not a professional lawyer. His qualifications for the judicial office were only those acquired by experience on the magisterial bench, on which he had sat for many years by no means regardless of its responsibilities, and upon the duties of which he had published a tract, in 1684, entitled *The Justice of Peace, his Calling: a Moral Essay*. Mr. Bohun, bred a dissenter from the religion of the established church, a great admirer of parliaments, and taught betimes to fear monarchy and arbitrary government, became one of the sturdiest advocates of hereditary monarchy, but was, nevertheless, a most zealous and uncompromising Protestant. Upon the overthrow of James, he held, with others, that the most submissive slaves of "passive obedience were not bound to remain forever without a government" or actively seek the restoration of a prince who had sought to enslave the nation and overthrow the Protestant church. Holding fast the theory of non-resistance, he thanked God that he, by his own "particular providence, had rejected a king who had notoriously invaded and destroyed all our civil and religious rights and liberties." His abandonment of the cause of James cost him the friendship of Archbishop Sancroft and the loss of his seat on the magisterial bench. But upon the return to power of the Tories in the Parliament of 1690, Mr. Bohun was given the post of licenser of the press. Here the perversity of his character or fortune again asserted itself. While his known opinions and published writings laid him open to strong suspicion of Jacobitism on the one hand, his avowed allegiance to William and Mary exposed him, on the other, to a charge of gross inconsistency. He held the office but five months. His Protestant zeal had occasioned his expulsion from the

<sup>1</sup> For list of works by him see Allibone's *Dictionary of Authors*.

magistracy under James; restored to it under William and Mary, he was again removed by the Whigs because of his Toryism. A sincere and earnest Christian, a scholar and writer of great ability, he appears to have been a man without tact in the vigorous expression of his opinions; to which misfortune his irascible temper and the acrimony of his style added bitterness. It is not known through what medium he obtained the office of Chief Justice of South Carolina. His inducement to seek it was probably that his eldest son, Edmund, had settled as a merchant in the colony.<sup>1</sup>

On the 16th of August, 1698, the Proprietors wrote to Governor Blake and Council:<sup>2</sup>—

“Gentlemen: wee are intent upon making you the happy settlement in America; in order to which wee sent you by Major Daniell (who we hope is safely arrived) constitutions of government in which wee have been more hearty in securing your liberty and property than any particular advantages of our owne. With him went a Mr. Marshall a minister recommended by us, who wee hope and doubt not will both by example and preaching encourage virtue, and that he will not want encouragement from you. And because good laws without due exercise are a dead letter, and the reputation of a just execution of them is inviting wee have commissioned Edmund Bohun Esq a person who has had a very good reputation in the execution of the laws of England to be your chief justice; who besides the advantage of his owne estate which will be transmitted to him is allowed by us a very good salary to keep him beyond the reach of temptation of corruption. Gentlemen your very affectionate friends *Bath Palatine*” etc.

To obtain for their colony a reputation of the wise administration of its laws, the Proprietors sent out a mere Justice of the Peace of England as Chief Justice of the province; and to secure him against the temptation of corruption, they allow him, as a very good salary, £60 a year

<sup>1</sup> *Introductory Memoir to Autobiography.*

<sup>2</sup> *Ibid.*

(about \$1200), but in addition to which there were also perquisites of fees and costs.

John Ely was commissioned as Receiver General on the 26th of July, and the Governor and Council were informed of his appointment at the same time as they were informed of the appointment of the Chief Justice. Mr. Ely was charged as Receiver to settle, or to introduce, a trade to North Carolina and the Bahamas, so as to produce a profitable revenue to Charles Town. He was to inform himself of the fines imposed upon persons for misdemeanors, and to collect the same; to inquire concerning forfeited and escheated estate; to take charge of their share of wrecks; to get information in regard to all lands granted, and to frame a regular rent-roll. He was to pay the salaries of the officers, to receive a certain commission himself, and to present his accounts once in every three months. At the same time the Rev. Mr. Samuel Marshall was sent out and appointed Registrar of the colony.

The Proprietors were thus attempting — in a niggardly way, it is true — to provide a better government; but they were becoming a less and less influential body. Their hold upon the province was being weakened and loosened both at home and in Carolina. At home, in England, Proprietary governments were falling into disfavor, and the Royal authorities were on the alert to find some good cause of forfeiture or suppression. In Carolina the colonists were becoming more and more restive under the control of a weak board, sitting thousands of miles away, and giving to their vital interests no regular attention, but only the idle moments of lives devoted to other purposes. Randolph had roused the Board of Trade at Whitehall to a stricter enforcement of the navigation acts, and the possibilities of a larger revenue from his Majesty's customs.



He was now turning his attention particularly to South Carolina, where he proposed to make his residence in the winter time to avoid the extreme cold of the northern plantations.<sup>1</sup> From Charles Town, on the 16th of March, 1698-99, he addressed a long and interesting letter to the Commissioners of Trade.<sup>2</sup> From this letter it appears that Blake had not been confirmed as Governor by his Majesty's order, because the act of 1695, requiring the King's approval, had not been noticed by the Proprietors. He gives an estimate of the population as not above 1500 white men, and throughout the province a proportion of four negroes to one white man; not more than 1100 families English and French. He tells the story of the destruction of Lord Cardross's colony in 1686, and of the projected invasion of St. Augustine, the design of which, he had heard, was to establish a trade with the Spaniards. He finds great alarm at the rumors of the French settling on the Mississippi, "not far from the head of the Ashley River"; charges the Lords Proprietors with neglect in not furnishing ammunition during the French war; proposes a scheme for soldiers to be sent over at half pay for two or three years, then to maintain themselves (this could be done at small charge until they numbered 1000); submits a proposal by one of the Council, a great Indian trader who had been 600 miles up the country west from Charles Town, to discover the mouth of the Mississippi in five or six months at an expense of about £400 or £500.<sup>3</sup> The great improvement made in the province he attributes to the industry and labor of the inhabitants. They had applied themselves to make such commodities as might increase the revenue of the Crown,

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 209.

<sup>2</sup> *Ibid.*, 210; *Hist. Sketches of So. Ca. (Rivers)*, Appendix, 443.

<sup>3</sup> Colonel James Moore, *Coll. Hist. Soc. of So. Ca.*, vol. I, 208.

as cotton wool, ginger, indigo, etc., but finding them not to answer the end, they were set upon making pitch, tar, and turpentine, and planting rice, of which they could make great quantities if they had any encouragement from England, having about 50,000<sup>1</sup> slaves to be employed in that business; but they had lost most of their vessels, which were but small, some by the French and some by the Spaniards, so that they were not able to send those commodities to England for a market; neither were there sailors there to man their vessels.

He recommends that his Majesty should, for a time, suspend the duties upon rice, and should encourage the planters to fall vigilantly upon making pitch and tar, etc. Charles Town he represented as the safest port for vessels bound from the West Indies to the northern plantation. He had formerly presented their Lordships with proposals for supplying England with pitch, tar, masts, and all naval stores from New England; and he had observed, when in New York, great abundance of tar brought down the Hudson River, and great quantities also from the colony of Connecticut; but since his arrival in Carolina, he finds he had come to the only place for such commodities upon the Continent of America. Some persons had offered to deliver in Charles Town Bay, upon their own account, 1000 barrels of pitch and as much tar, others greater quantities, provided they were paid for it in Charles Town in Lyon dollars,<sup>2</sup> passing here at five shillings per piece. The season for making these commodities in this province being six months longer than in Virginia and the more

<sup>1</sup> Doubtless a clerical error or typographical error for 5000.

<sup>2</sup> By act of 1694, fixing the value of Spanish coins, it was enacted "that pieces of eight of the coyne of Mexico Pillar . . . Peru *Lion* dollar and other coyne containing full thirteen penny weight troy and upwards shall be currante money and pass in this part of this province at five shillings the piece of eight," etc. — 2 *Statute*, 95.

northern plantations, a planter here could make more tar in one year with fifty slaves than the inhabitants of northern plantations could do with double the number in those places, these slaves living here at very easy rates and with few clothes. He encloses a statement of the number of French Protestants living in Carolina, which he had received from Mr. Girard. He finds these people industrious and good husbandmen; but they were discouraged because they were denied the benefit of being the owner and master of vessels which other subjects of his Majesty's plantation enjoyed. He concludes his account of Carolina by saying that, if the place was duly encouraged, it would be the most useful to the Crown of all the plantations upon the Continent of America.

The new courts did not work smoothly. A vessel was seized and condemned in the Court of Admiralty as a prize; Morton, the Judge, refusing to receive the evidence of witnesses that it was owned by English subjects and overruling all defences. Randolph, as usual putting the worst construction upon the affair, charged corruption, in which he implicated the Judge in Admiralty and the Governor, his brother-in-law. The matter was taken up in England and gave considerable trouble.<sup>1</sup> As might have been expected from the over punctiliousness and scrupulosity of the new Chief Justice, and his general unfitness for such a position amidst the discordant elements of the colony, with the meddlesome Randolph at hand to be stirring up new difficulties, Mr. Bohun was soon in as much trouble in Carolina as he had been at home. He was at once in as much opposition to Governor Blake as he had been first to King James, and then to King William. Nor did he find the colonists of Carolina any more disposed

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 200, 201; *Colonial Records of No. Ca.*, vol. I, 546.



to acquiesce in his assumption of superior morals than had been the Whigs or Tories in England.

We have no record of the immediate occasion of the difficulty which arose, but it is apparent that the attempt two hundred years ago to establish in Carolina a dual government, with a dual system of judicature, gave rise at once to jealousies and collisions as it has done afterwards in our own times under the Federal and State constitutions. The Lords Proprietors duly forwarded to their Governor and Council the orders and instructions of the Royal Government relating to the trade and navigation laws with instructions to observe them, and to pay all due respect to his Majesty's officers; but they were very jealous of the Court of Admiralty, and did not hesitate to express their chagrin that Landgrave Morton, one of their Council, should have accepted a commission from any other source than themselves, even though it was that of a judicial office from his Majesty himself.<sup>1</sup>

On the 21st of September, 1699, the Proprietors address two letters, one to the Governor and Council and the other to the Chief Justice.

To the former they write :<sup>2</sup> —

“Gentlemen: wee are not willing to let any ship goe from hence without a line from us. And truly you do manage matters on all hands that wee have occassion more than enough. We are sorry that the sincere love and hearty care wee have for our colony should produce no better effect, and wonder you can't see the benefit that will always accrue to you and your posterity by a judge who does not depend on the will and pleasure of a governor. For as we will not act arbitrarily ourselves, so we will always endeavour that nobody shall. Wee expected that you and our councill should have countenanced our judge; but wee easily discern that you raise him all the enemys and troubles that you can, and in some things in an extraordinary way

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 148, 149.

<sup>2</sup> Note to *Introductory Memoir to Autobiography of Edmund Bohun*.

to say no otherwise of it. Not that wee judge him altogether blameless ; but there have been faults on all hands. And wee expect and earnestly desire that which is past may be forgot and that for the future you will give him due encouragement and assistance as we shall require of him to carry himself with all respect to you and justice and kindness to the people. Gentlemen your very affectionate friends. Bath palatine," etc.

To the latter they write:—

"Sir: wee are sorry you have not met with the encouragement and assistance wee designed you should have had and which for the future will be given to you ; but can't omitt to tell you that you likewise have been to blame and have done things imprudently and irregularly. Wee rather that you calmly considering of what is past, should find them out, than wee be forced to tell you of them. Wee have given orders to the govenor and councill in this matter, and wee expect that you should show them all respect. Wee would recommend to you not to shew too great a love for money which is not beautifull in any man much worse becoming a judge. Take no more than your dues and if they at present be of the least consider time will mend them ; and if that don't there may be meanes found to doe it. The way to compass that is not by complaint or passion. When you have convinced everybody by your actions of your justice and especially if you act with prudence and temper you will gaine their love, and they will be studyng to make such a man easy. Sir your very affectionate friend," etc.

On the 19th of October their Lordships address two more letters, one to Governor Blake, the other to Attorney General Trott. To the Governor they write:—

"Wee are troubled to see you have not given encouragement to our judge as you ought to have done, but have on the other hand, to vex him, been exalting the admiralty jurisdiction 'Tis so surprising to us that we can't tell what to think of you or the councill or the people for whose sake wee were at the charge to send and maintaine a judge The people of New York have addressed the governor that judges and councillors may be sent from England, and promise to encourage them themselves . . . There is nothing contributes more to the peopling of a country than an impartiall administration of justice; nothing encourages trade more; for it is hardly to be imagined that men will labour and run great hazards to get an estate

if they have not some assurance of being protected by the lawes . . . We must desire you to be very cautious for the future in giving your assent to acts which hinder men from coming at their just rights. Sir," etc.

Trott appears in this instance to have acted as a peace-maker. The Proprietors write to him:—

"Wee are well pleased with your prudent management of the affaires of Judge Bohun and returne you our thanks. Wee are sensible that he likewise has in some things not been so prudent as he should have been. Wee have directed your governor and councill to accomodate that affayr and to countenance our judge, in which we expect great assistance from your knowledge and prudence. Sir," etc.

This reference to the action of the colonists of New York was needless; the colonists of Carolina had made the same appeal. Twenty-nine years before O'Sullivan had written, requesting that an able counsellor should be sent to end controversies, and put them in the right way to manage the colony;<sup>1</sup> but the preposterous provision of the Fundamental Constitutions in regard to lawyers and to lawmaking had deterred any from coming; and now the Proprietors, while sending them a lawyer as Attorney General, were sending them a laymen for Chief Justice. In the letter of October 19, the cause of the present trouble is hinted at. It was that the Governor and Council were vexing Bohun, their Chief Justice, by retaining his Majesty's Judge of Admiralty. In other words, the Governor and Council were paying more deference to the Royal authority than to that of the Proprietors. In another letter they charged that Mr. Randolph's "blustering has occasioned much of this embroilment."<sup>2</sup> But pestilence and death came to put a speedy end to the career of the Chief Justice and Receiver General.

The two last years of the century were full of disasters

<sup>1</sup> *Ante*, p. 137.

*Coll. Hist. Soc. of So. Ca.*, vol. I, 148.



to the colonists. In the midst of all the political turmoil, fire, pestilence, storm, and earthquake visited the plantation. A letter from the Governor and Council to the Lords Proprietors, dated March 12, 1697-98 states: "We have had the small pox amongst us nine or ten months which hath been very infectious and mortal. We have lost by the distemper 200 or 300 persons. And on the 24 February a fire broke out in the night in Charles Town which hath burnt the dwellings stores and out-houses of at least fifty families and hath consumed (it is generally believed) in houses and goods the value of £30,000 sterling." In a subsequent letter, dated April 23, 1698, they state that the smallpox still continued, but was not so fatal as in the cold weather, and that a great number of Indians fell victims to the disease.<sup>1</sup> A letter of Mrs. Affra Coming to her sister in England of the same time, March 6, 1698-99, gives a still more gloomy account. She writes:<sup>2</sup>—

"I am sorry that I should be the messenger of so sad tidings as to desire you not to come to me till you can hear better times than here is now, for the whole country is full of trouble & sickness, 'tis the Small pox which has been mortal to all sorts of the inhabitants & especially the Indians who tis said to have swept away a whole neighboring nation, all to 5 or 6 which ran away and left their dead unburied, lying upon the ground for the vultures to devour; beside the want of shipping this fall winter & the spring is the cause of another trouble, & has been followed by an earthquake & burning of the town or one third of it which they say was of equal value with what remains, besides the great loss of cattle which I know by what has been found dead of mine and being over stocked, what all these things put together makes the place look with a terrible aspect & none knows what will be the end of it," etc.

The next year, 1699, a malignant disease, with little doubt yellow fever, was brought in from the West Indies

<sup>1</sup> Dalcho's *Ch. Hist.*, 32, note.

<sup>2</sup> MSS. letters in possession of Mr. Isaac Ball.

and raged in the town. In a letter from the Governor and Council dated Charles Town in South Carolina January 17, 1699-1700,<sup>1</sup> they state that they had nothing to communicate but that

“a most infectious pestilential and mortal distemper (the same which hath always been in one or more of his Majestys American plantations for eight or nine years last past) which from Barbados or Providence was brought in among us into Charles Town about the 28<sup>th</sup> or 29<sup>th</sup> of Aug. last past, and the decay of trade and mutations of your Lordships public officers occasioned thereby. This distemper from the time of its beginning aforesaid to the first day of November killed in Charles Town at least 160 persons. Among whom were Mr Ely Receiver General; Mr Amory Receiver for the Public Treasury; Edward Rawlins Marshall; Edmund Bohun Chief Justice. Amongst a great many other good and capital Merchants and Housekeepers in Charles Town, the Rev Mr Marshall our Minister was taken away by the said distemper. Besides those that have died in Charles Town 10 or 11 have died in the country, all of which got the distemper and were infected in Charles Town went home to their families and died; and what is notable not one of their families was infected by them.”

Another letter states that “150 persons had died in Charles Town in a few days”; that “the survivors fled into the country” and “that the town was thinned to a very few people.”<sup>2</sup>

It is noticeable that Chief Justice Bohun, the Rev. Samuel Marshall, the Receiver General Ely, and Edward Rawlins, all newly arrived, fell victims to the disease. But the old settlers were not exempt. Half of the members of the Assembly died. Nicholas Trott, the Attorney General, though a new arrival, escaped. Dr. Ramsay, who wrote in 1809, observes this disease was generally called the plague by the inhabitants, but that from tradition and the circumstances, particularly the contemporaneous existence of the yellow fever in Philadelphia, there

<sup>1</sup> Dalcho's *Ch. Hist.*, 35, 36.

<sup>2</sup> *Ibid.*

is reason to believe that the malady was the yellow fever, and if so, it was the first appearance of that disorder in Charles Town and took place in the nineteenth or twentieth year after it began to be built. He considers that its reappearance in 1703 makes it still more probable that it was the yellow fever.<sup>1</sup> Dr. Dalcho, a physician whom tradition asserts was surgeon of a privateer before his entry into the ministry, and who was probably familiar with the disease in the West Indies, regards it also as probable that it was the same yellow fever of the time in which he wrote, *i.e.* the same as that of the present day. Indeed, we may safely assume that it was. He also calls attention to the fact that at that time, before our extensive swamps were cleared of their timber and their surface exposed to the direct rays of the sun, persons could reside in the low country in the summer and autumn without danger, and when unusual sickness prevailed in the town the country was resorted to as a place of health.<sup>2</sup> This continued for many years after. In 1738, we shall see, the General Assembly called and assembled at Ashley Ferry in September to legislate in regard to the spread of smallpox, then raging in the town.

During the autumn of 1699 a dreadful hurricane, as it was then called, happened at Charles Town, which did great damage and threatened the total destruction of the town. The swelling sea rushed in with amazing impetuosity and obliged the inhabitants to retreat for safety to the second stories of their houses. Happily, few lives were lost in the town, but a vessel, one crowded with the remnants of the disastrous Darien colony, happening to be off the bar at the time, was totally destroyed. This vessel, the *Rising Sun*, commanded by James Gibson, was one of seven in

<sup>1</sup> Ramsay's *Hist. of So. Ca.*, vol. II, 82, 83.

<sup>2</sup> Dalcho's *Ch. Hist.*, 36, note.



which the survivors of the Scotch colony had embarked upon their attempted return to their native land. But one only reached home. Many of those who had embarked in the *Rising Sun* died of fever and fluxes. To complete the chapter of disasters, the vessel encountered a gale off the coast of Florida which brought them into great distress. They made for the port of Charles Town under a jury-mast, and while lying off the bar waiting to lighten the vessel that she might get into port, the storm arose in which she went to pieces, and nearly every person on board perished.<sup>1</sup> From this vessel one was saved, however, almost miraculously, who was to be in a great measure the founder of the Presbyterian Church in Carolina. The Rev. Mr. Archibald Stobo had been waited upon by a deputation from the Congregational Church in the town and invited to preach, and, agreeing to do so, had gone up, taking with him his wife. Lieutenant Graham and several others also accompanied him. These thus escaped; and, going the next day in search of their unfortunate countrymen, found the corpses of the greater part of them washed ashore on James Island, where they spent a whole day burying them. Captain Gibson, the commander of the vessel, was among those who were lost; and this was regarded by many in Scotland as the retribution of Heaven upon his cruel conduct towards the poor prisoners whom he transported to Carolina in 1684. "In the very same place," it was said, "it pleased the Sovereign Lord of heaven and earth to call him in so terrible a manner to his account."<sup>2</sup>

One other event of the closing year of the century must be mentioned, which, it is to be hoped, had given some satisfaction to Mr. Randolph, though he has left no report

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 142.

<sup>2</sup> Howe's *Hist. Presb. Ch.*, 141, 142.

of it to the Lords of Trade. In some alleviation of the disasters of the year the planters had made a great rice crop. They had raised more than they could find vessels to export, but the number which the crop employed had attracted the pirates, who hovered about the bar. Forty-five persons from different nations, Englishmen, Frenchmen, Portuguese, and Indians, had manned a ship at Havana and entered on a cruise of piracy. Several ships belonging to Charles Town were taken and the crews sent ashore. But quarrelling among themselves about the division of the spoil, the Englishmen, proving the weaker party, were turned adrift in a long-boat. They landed at Sewee Bay and travelled overland to Charles Town, giving out that they had been shipwrecked, but had, fortunately, escaped to shore in their boat. To their sad disappointment and surprise, no less than three masters of ships happened to be at Charles Town at the time, who had been taken by them and knew them; upon their testimony the pirates were instantly taken up, tried, and condemned, and seven out of nine suffered death.<sup>1</sup>

This account is taken from Hewatt. We can find no allusion to the incident in correspondence of the time; nor are we informed whether this swift judgment was the first-fruits of the newly established Court of Admiralty, or was inflicted by the "lynch law" of the people.

Never, says Hewatt, had the colony been visited with such general distress and mortality. Few families escaped a share of the public calamities. Almost all were lamenting the loss, either of their habitations by the devouring flames, or of friends or relations by infectious and loathsome maladies. Discouragement and despair sat on every countenance. Many of the survivors could think of nothing but abandoning a country in which the judgments of

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 141.

Heaven seemed to fall so heavily and in which there was so little prospect of success, health, or happiness. They had heard of Pennsylvania and how pleasant and flourishing a province it was described to be, and therefore were determined to embrace the first opportunity that offered of retiring to it with the remainder of their families.<sup>1</sup>

As it happened, however, yellow fever was at the time raging in Philadelphia as well as in Charles Town, and those who had come from the West Indies regarded that dread disease only as one of the evils to which life was ordinarily exposed. Smallpox was all over the world. It was common at this time in England. From the dangers of fire there was no exemption in any country.

And notwithstanding all the political difficulties; notwithstanding the impotent yet harassing control of the Board of Proprietors in England, the jarring elements of different and differing people from various lands thrown together in a new country under a feeble government; notwithstanding the national animosities, the religious antagonisms, the strife and turmoil of a new society, in its struggles to adjust itself; notwithstanding hurricane, fire, and pestilence, — the province was improving and the colonists were growing in numbers and acquiring some wealth.

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 143.



## CHAPTER XIV

1700

THIRTY years had now elapsed since the planting of the colony on the Ashley, — thirty years during which the only serious efforts of the Proprietors had been devoted to the imposition of the absurd Constitutions of Locke, and an immediate return from the sales and quit-rents of lands and the profits of the Indian trade. Since the minute instructions to West for an experimental farm, they had paid no attention whatever to the development of agriculture in the province, nor to the defence of the colony from the French or Spaniards. Whatever had been accomplished in the material development of the colony had been by the efforts of the colonists themselves without the assistance of their Lordships in England. “The great improvement made in this Province,” wrote Randolph, “is wholly owing to the industry and labor of the inhabitants.”<sup>1</sup> The Lords Proprietors took, however, the credit to themselves; they wrote to Archdale, when on his way out, that Carolina was looked upon as a place of refuge and safe retreat from arbitrary government and the inconveniences of other places;<sup>2</sup> and Archdale, nowise loath to claim the honor due his administration, announces that the fame thereof quickly spread itself to all the American plantations and caused immigration to the province.<sup>3</sup>

<sup>1</sup> *Hist. Sketches* (Rivers), Appendix, 445.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 138.

<sup>3</sup> Carroll's *Coll.*, vol. II, 107.

But to whatever causes attributable, and they were many, the province was indeed improving and the inhabitants multiplying. In 1680 the population was estimated to be 1000 or 1200 souls; but the great number of families who had soon after come in from England, Ireland, Barbadoes, Jamaica, and the Caribbee Islands, it was estimated, had more than doubled that number, so that in 1682 the white population was probably 2500.<sup>1</sup> In 1699 Randolph wrote: "Their militia is not above 1500 soldiers, white men, but have through the province generally 4 negroes to 1 white man and not over 1100 families English and French."<sup>2</sup> Estimating the fighting men at one-fifth of the population<sup>3</sup> would make the number at this time 7500. It could scarcely, however, have reached that figure, especially since the number of families was but 1100. Supposing that the families averaged five members each, which is a large estimate, particularly in a new country, it would give but 5500. This may have been near the actual number. Hewatt states, but without giving his authority, that about this time the number of the inhabitants in the colony amounted to between 5000 and 6000.<sup>4</sup>

Archdale, as we have before seen, is very severe upon the character of the first settlers, describing them as "desperate fortunes" who "first ventured over to break the ice . . . generally the ill-livers of the pretended churchmen";<sup>5</sup> but Archdale was much prejudiced against church-

<sup>1</sup> T. A. Carroll's *Coll.*, vol. II, 82.

<sup>2</sup> *Hist. Sketches* (Rivers), Appendix, 443.

<sup>3</sup> "It is a popular estimate that one-fifth of the population are fighting men. If this is intended to designate the natural militia, that is, the male population over eighteen and under forty-five years of age, it will almost always be an overestimate, except in a population receiving large accessions of adult immigrants or among savage tribes." — Hammond's *South Carolina Resources and Population*, etc., 395 (1883).

<sup>4</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 147.

<sup>5</sup> Carroll's *Coll.*, vol. I, 100.

men sincere or “pretended.” Yet the term “adventurers” — not in the technical sense of the contracts under which some sailed,<sup>1</sup> but as applied to those willing to incur risks, because having little to lose — described the character of many who first came to Carolina. Hewatt applies the same descriptive term to those who immediately followed. From this period, *i.e.* that of Sir John Yeamans’s administration, he says, every year brought new adventurers to Carolina. The friends of the Proprietors were invited to it by the flattering prospects of obtaining landed estates at an easy rate. Others took refuge there from the frowns of fortune and the rigor of unmerciful creditors. Youth reduced to misery by giddy passions and excess embarked for the new settlement, where they found leisure to reform, and where necessity taught them the unknown virtues of prudence and temperance. Restless spirits, fond of roving abroad, found also the means of gratifying their humors, and abundance of scope for enterprise and adventure.<sup>2</sup> It was, perhaps, among this class that Mr. Amy’s “great services” were rendered in meeting and treating people at the Carolina Coffee House, and inducing them to go out to the colony.

The immigrants who came into Carolina made a medley of different nations and principles. From England, says Ramsay, the colony received both Roundheads and Cavaliers, the friends of Parliament and adherents of the Royal family.<sup>3</sup> If all adherents to the Royal family are classed

<sup>1</sup> Dalcho’s *Ch. Hist.*, 14.

<sup>2</sup> Hewatt’s *Hist. of So. Ca.*, vol. I, 56. See this passage, also, in Ramsay’s *Hist. of So. Ca.*, vol. I, 3–4. A similar description is given of the first settlers in Virginia: “poore gentlemen, tradesmen, serving men, libertines . . . unruly gallants packed thither by their friends to escape ill destinies.” — Anderson’s *Hist. of the Church of England in the Colonies*, vol. I, 203, quoting Smith’s *Virginia*, 88–90.

<sup>3</sup> Ramsay’s *Hist. of So. Ca.*, vol. I, 3.



as Cavaliers, the statement is no doubt correct. But in the sense in which the word is generally understood, the records scarcely bear out the designation of the Cavaliers, whom Macaulay describes as those opulent and well-descended gentlemen to whom nothing was wanting of nobility but the name, there were none among the earlier settlers, and but few came afterwards.<sup>1</sup>

Until the time we are now considering, there had been but two persons in the colony having a title — Sir John Yeamans, the Landgrave and Governor, and Sir Nathaniel Johnson, who was also to be honored with that provincial title.<sup>2</sup> Sir John had been knighted because of his father's sacrifices in the Royal cause, and for his own services in Barbadoes. Sir Nathaniel had won his title by his sword in the service of the Stuarts. As has been observed, any tradition that connects to any extent the provincial aristocracies of the Southern States with the Old World patrician origin is pure sentimental fiction; that is, not only contrary to common sense and to all evidence that can be collected, but is in defiance of colonial history itself. The social order of South Carolina has been the outgrowth of her peculiar circumstances.

<sup>1</sup> See *Hist. Sketch of So. Ca.*, by Edward McCrady; Preface to *Cyclopedia of Eminent and Representative Men of the Carolinas*, etc. (Madison, Wisconsin, Brant & Fuller, 1892).

<sup>2</sup> The wife of Landgrave Axtell and the wife of Landgrave Blake are mentioned as "Lady Axtell" and "Lady Blake" in grants and statutes; but this, it is supposed, was merely a local honorary designation of the wife of a Landgrave. It cannot be found that they were entitled to the appellation by any connection with the peerage in England. Louisa Carolina, wife of Rear Admiral Richard Graves, a descendant of Sir John Colleton, in a little book published by her in 1821, entitled, *Desultory Thoughts on Various Subjects*, styles herself "Baroness of Fairlawn and Landgravine of Colleton." This lady was descended from the three Proprietors, — Sir John and the two Sir Peter Colletons. She was not, however, descended from either of the Landgraves Thomas or James Colleton.

But though socially not patricians, and in the main consisting of those whose circumstances led them to seek better fortunes in the New World than the Old afforded, and of others of a lower order and more reckless character, there is still manifest a strong religious sentiment even among the first-comers, and a recognition of the Church of England as the established religion of the colony. Sayle, dissenter and Puritan though he was, had scarcely landed before he applied for a clergyman of the church to be sent out, — an appeal which was immediately seconded by O'Sullivan, Bull, West, Scrivener, Marshal Paul Smith, and Dalton, all the leaders of the colony. The very first act passed is one to enforce the observance of the Sabbath. It is, nevertheless, doubtless true that the dissenters who came with Blake, Morton, and Axtell, and the French refugees flying for conscience' sake, were, as a class, men of higher, of sterner character than those who came from motives of personal advancement only.

It cannot be deemed wonderful, observes Hewatt, if many of these new settlers were disappointed, especially such as emigrated with sanguine expectations. The gayety, luxury, and vices of the city were but poor qualifications for rural industry, and rendered some utterly unfit for the frugal simplicity and laborious task of the first state of cultivation. Nor could the Puritans promise themselves much greater success than their neighbors; though more rigid and austere in their manners, and more religiously disposed, their scrupulosity about trifles and ceremonies, and their violent religious dispositions, created trouble all around them, and disturbed the general harmony so necessary to the welfare and prosperity of the young settlement. From the various principles which actuated the populace of England, and the different sects who composed the first settlers of Carolina, nothing less could have been expected

than that the seeds of division should be imported into the new country with its earliest inhabitants.<sup>1</sup>

There is no record of the first French Protestants brought out by Petit and Grinard in the ship *Richmond* in 1680, though one of the conditions of their transportation was that a list of their names should be furnished. They must have been persons of some means, however small, for they were required to furnish their own provisions for the voyage. It is believed that they were settled on the east branch of Cooper River, and formed the nucleus of what was known as Orange Quarter, subsequently the parish of St. Denis. It has been conjectured that the first of these names was derived from the principality of Orange in the province of Avignon. The name of St. Denis is supposed to commemorate the battle-field of St. Denis in the vicinity of Paris, which was the scene of a memorable encounter in 1567 between the Catholic forces commanded by Montmorency and the Huguenots led by Coligny and the Prince of Condé, in which Montmorency was slain. Some thirty families were settled here soon after the Revocation of the Edict of Nantes.<sup>2</sup> Lawson, in his travels in 1700, found seventy families established on the Santee, following trade with the Indians and living "as decently and happily as any planter in these southward parts of America. The French," he says, "being a temperate and industrious people, some of them bringing very little effects, yet by their endeavours and mutual assistance amongst themselves (which is highly to be commended) have outstript our English who brought with 'em larger fortunes though (as it seems) less endeavour to manage their talent to the best advantage. They live," he says, "like one family, and each one rejoices at the prosperity and elevation of his

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 56.

<sup>2</sup> Howe's *Hist. Presb. Ch.*, 111.



bretheren.”<sup>1</sup> But it was through pain, travail, and anguish that these noble people accomplished what they did. A letter of one of the first to arrive, the mother of Gabriel Manigault, who in a long and useful life was to accumulate a fortune so large as to enable him to aid the asylum of his persecuted parents with a loan of \$220,000 for carrying on its revolutionary struggle for liberty and independence, has been preserved by Ramsay, which, after giving a most touching and piteous account of escape from France and suffering on their voyage to Carolina, thus relates their bitter experience there:—

“After our arrival in Carolina,” she writes, “we suffered every kind of evil. In about eighteen months our elder brother unaccustomed to hard labor we were obliged to undergo died of a fever. Since leaving France we had experienced every kind of affliction—disease—pestilence—famine—poverty—hard labor. I have been for six months together without tasting bread, working the ground like a slave; and I have even passed three or four years without always having it when I wanted it. God has done great things for us enabling us to bear up under so many trials. I should never have done were I to attempt to detail to you all our adventures. Let it suffice that God has had compassion on me and changed my fate to a more happy one, for which glory be unto him.”<sup>2</sup>

The Huguenots at first cultivated the barren highlands, and naturally attempted to raise wheat, barley, and other European grains upon them until better taught by the Indians. Tradition relates that men and their wives worked together in felling trees, building houses, making fences, and grubbing up their grounds until their settlements were formed; and afterwards continued at their labors at the whip-saw, and in burning tar for market. General Peter Horry stated that his grandfather and grandmother

<sup>1</sup> *A New Voyage to Carolina*, etc., by John Lawson, Gentleman, Surveyor General of North Carolina (London, 1709).

<sup>2</sup> Ramsay's *Hist. of So. Ca.*, vol. I, 6, note. The letter is in French.

began the foundation of their handsome fortune by working together at the whip-saw.<sup>1</sup>

It was hoped that these people would have introduced the successful cultivation of vines and the production of oil and silk. Unfortunately, their expectations were disappointed. An attempt was made to cultivate the vine and the olive, but the climate proved insalubrious, the land, except on the margin of the rivers and creeks, was unproductive, and did not reward the care of the cultivator. But though not successful in enriching the country with these valuable commodities, these refugees became a most important and useful part of the population of the colony, and were soon after joined by others of their people like themselves, refugees from religious persecution.

The good will of the King and Lords Proprietors towards these distressed and exiled Protestants has been considered an instance of noble humanity.<sup>2</sup> We cannot so regard it, at least on the part of the Proprietors. Their great desire and purpose at this time was to effect a colonization of their lands. They were seeking emigrants for the province on their own account and for their own advantage, and the sober and industrious character of these people, and, as it was supposed, their peculiar adaptability to the climate and circumstances of Carolina, strongly recommended the scheme of their colonization to their Lordships. So advantageous, indeed, did they regard this immigration that they granted Rene Petit and Jacob Grinard 4000 acres of land each for having secured the addition to their colony.<sup>3</sup> During the years 1685, 1686, and 1687, the Proprietors made sales themselves directly to French refugees, and sent out instruction for lands to be surveyed for

<sup>1</sup> James's *Life of Marion*, Introduction, p. 12.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 174.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 102.

them.<sup>1</sup> But only in two instances does it appear that these grants were made upon other terms than payment of the purchase money; and in these they were apparently granted as a bonus for inducing others to emigrate. To Jean François de Genillat, the first of the Swiss nation to settle in Carolina, was granted 3000 acres; and to John d'Arsens, Seigneur de Wernhaut, probably a Belgian, the trustees of the Proprietors were instructed to measure out such quantity of land as he might desire, not exceeding 12,000 acres.<sup>2</sup> Including those to the Swiss and Belgians, grants to the foreign Protestants amounted to more than 50,000 acres. The grants to these people, whether upon sale or for other considerations, were upon the same terms of possession and descent as the lands given or sold to English settlers, notwithstanding the opinion of the latter that the new-comers were aliens in all respects in the colony as they were in the mother country.<sup>3</sup>

Charles II had furnished the first of these emigrants with transportation in the ship *Richmond*, and in the reign of James II considerable collections were made for the refugees who went over to England; and in that of William, £3000 were voted by Parliament "to be distrib-

<sup>1</sup> These grants were as follows: (1685) James du Gué, 500 acres; Isaac Le Jay and Magdalen Fleury *alias* Le Jay, his wife, 500 acres; Charles Franchomme and Mary Baulier *alias* Franchomme, his wife, 500 acres; Nicholas Longuemar, 100 acres; Jean François de Genillat (Swiss), 3000 acres; Arnold Bonneau, 3000 acres; James Le Bas, 3000 acres; (1686) Isaac Le Grand, Siém d'Anarville, 100 acres; James Le Moyne, 100 acres; James Nicholas *alias* Petibois, 200 acres; Henry Augustus Chastaigner, Esq., Seigneur de Cramaché, and Alexander Chastaigner, Esq., Seigneur de Lisle, 3000 acres; John d'Arsens, Seigneur de Wernhaut, 12,000 acres; James Martell, Goulard de Vervant, 12,000; (1687) Joachim Gaillard, 600 acres. *Coll. Hist. Soc. of So. Ca.*, vol. I, 114, 119. But one of these names, *i.e.* Gaillard, is now surviving in South Carolina.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 114, 117.

<sup>3</sup> *Hist. Sketches of So. Ca. (Rivers)*, 174.



uted among persons of quality, and all such as, through age or infirmity, were unable to support themselves." The nobility and wealthier portion of refugees remained nearer their old homes in England and on the Continent. Those who ventured to America were generally tradesmen, agriculturists, and mechanics. There were, however, among them some families of ancient lineage and position. In the act "making aliens free," the names and occupations of those who had petitioned the General Assembly are given, and from them we may gather somewhat of the character of these people. These are the occupations which are attached to their names: weavers, wheelwrights, merchants, saddlers, smiths, coopers, shammy-dressers, joiners, gunsmiths, sailmakers, braziers, goldsmiths, blockmakers, planters, watchmakers, silk-throwsters, apothecaries, and one doctor.<sup>1</sup> Sixty-three persons were named in the act, and all other persons desiring to come in under its provisions, and obtain the benefits of naturalization, were required, by its terms, to apply to the Governor and obtain a certificate from him of having taken the oath prescribed. Under this provision, the list of naturalized Huguenots was increased to 154.<sup>2</sup> The artisans generally found a home and employ-

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 132.

<sup>2</sup> "Liste Des François et Suisses . . . who desired naturalization." Edited by Theodore Gaillard Thomas, M.D. New York *Knickerbocker Press*, 1868. Ramsay gives a list of a number of respectable and influential families which sprung from this stock; to wit, *Bonneau*, Bounetheau, Bordeaux, *Benoist*, Boiseau, Bocquet, *Bacot*, Chevalier, *Cordes*, *Couterier*, Chastaigner, *Du Pre*, De Lysle, *Du Bose*, *Du Bois*, *Deveaux*, Dutarque, De la Consiliere, De Leiseline, Douxsaint, *Du Pont*, Du Bourdieu, D'Harriette, Faucheraud, Foissin, *Faysoux*, *Gaillard*, Gendron, Gegnilliat, *Guerard*, Godin, *Giradeau*, *Guerin*, *Gourdine*, *Horry*, *Huger*, Jeannertte, *Legare*, *Laurens*, *La Roche*, Lenud, Lansac, *Marion*, *Mazjck*,<sup>a</sup> *Manigault*, *Mouzon*,

<sup>a</sup> The Mazjcks were not, however, French or Swiss Huguenots. They were Walloons of Liège. The name originally was written de Mazyck; but upon the removal to the Isle de Ré was changed to Mazicq, agreeably

ment in Charles Town, while those accustomed to rural pursuits settled in Craven County on the Santee, and some on Cooper River and at Goose Creek, and industriously set to work clearing and cultivating the ground. The larger portion of these settled on the south side of the Santee, where a town or tract was laid out and called "James Town."<sup>1</sup> This portion of the country hence obtained the name of French Santee. Lawson found about fifty families settled on the banks of the Santee. In 1687 six hundred French Protestants were sent to America through the Royal bounty, and most of these, it is said, located in Carolina;<sup>2</sup> but this can scarcely be so, for the Huguenots, including all arrivals, did not reach that number.<sup>3</sup> Randolph enclosed to the Lords of Trade in his letter of

Michau, *Neufville*, *Prioleau*, *Peronneau*, *Perdrian*, *Porcher*, *Postell*, *Peyre*, *Poyas*, *Ravenel*, *Royes*, *Simons*, *Sarazin*, *St. Julien*, *Serre*, *Tresvant*. In the eighty years since Dr. Ramsay wrote, some of these families have died out or disappeared. The names of those still living are italicized.

<sup>1</sup> The tract of land was called "James Town," but no town or village was founded.

<sup>2</sup> *The Huguenots* (Samuel Smiles), 435.

<sup>3</sup> The following table was furnished Edward Randolph by Peter Girard. See *Hist. Sketches of So. Ca.* (Rivers), Appendix, 447:—

	PEOPLE
The number of the French Protestant Refugees of the French Church of Charles Town is . . . . .	195
The quantity of the French Protestants of the French Church of Goose Creek is . . . . .	31
The quantity of the French Protestants of y <sup>e</sup> Eastern branch of Cooper River is . . . . .	101
The number and quantity of the French Church of Santee is . . .	<u>111</u>
Total of the French Protestants to this day in Carolina . . .	438

to the French idiom. The original orthography was resumed by the emigrant to Carolina, a wealthy merchant, who, upon the Revocation of the Edict of Nantes, escaped, and came to Carolina with a cargo of £1000 sterling,—the foundation of a large fortune which he afterwards made in the trade to Barbadoes and the other West Indies. Howe's *Hist. Presb. Ch.*, 102.

March 16, 1698-99, an estimate of the number of these people as at that time 438.

The Rev. William Screven, a native of Somerset, England, emigrated to America in 1681, and settled at Kittery, in the province of Maine. He was an Anabaptist, and as such his religious views were not in harmony with the "Standing Order" of that province; whereupon he was presented and fined by the County Court "for not frequenting the publique meeting according to Law on the Lords days." The fine was remitted, however, as it appeared that he usually attended "Mr. Mowdy's meetings on the Lords days." He was nevertheless esteemed as a citizen and was rapidly advanced to positions of trust; but his zeal in behalf of his opinions determined him to devote himself to the ministry and to the formation of a Baptist Church in Kittery. Going to Boston, he was ordained on the 11th of January, 1682, and upon his return organized a Baptist Church; but in doing so he met with great opposition from the provincial authorities, was summoned before the County Court at York, examined as to his views upon infant baptism, and thereupon was adjudged guilty of blasphemy, fined, and prohibited from having any private exercises at his own house or elsewhere upon the Lord's Day, either in Kittery or any other place within the limits of the province. Disregarding this injunction, Mr. Screven was "convicted of contempt of his Majestys authority by refusing to submit himself to the sentence of the former court," required to give bond for his good behavior in the future, and committed to jail until he did so. He was released, however, upon his promise to depart out of the province within a very short time. On the 25th of September, 1682, a covenant was entered into and signed, and a "Baptist company" organized, for removal to some other place. They do



not, however, appear to have been in haste to go. As late as October 9, 1683, the "Baptist company" were settled at Kittery; for Screven was summoned again before the court for disregard of the previous order; and again on the 27th of May, 1684, he was summoned "to appear before the General Assembly in June next." As no further mention in reference to Mr. Screven is found in the records of the province, it is probable that he and his company had made all their preparations for removal and before the time of the meeting of the General Assembly arrived, had left their homes on the Piscataqua for a new settlement in Carolina. The place selected for the settlement was on Cooper River, not far from Charles Town; but the exact location is not known, nor the date of their arrival. Mr. Screven called the settlement Somerton, probably from his native place in England.<sup>1</sup> Blake, Axtell, and Morton came to Carolina about the same time. Blake's wife and her mother, "Lady" Axtell, became members of Mr. Screven's congregation. Before 1693 most of the members of the church had removed to Charles Town.<sup>2</sup>

In the year 1696 Carolina received a small accession of inhabitants by the arrival of a Congregational Church from Dorchester in Massachusetts, who, with their minister, the Rev. Joseph Lord, settled in a body near the head of the Ashley River, about twenty miles from Charles Town. The church of Dorchester, Massachusetts, was composed of a company of Puritans who, early in 1630, had sailed from Plymouth, England, and settled in that province. This congregation, which was formed as a missionary enterprise,

<sup>1</sup> To "a confession of Faith of several churches in the county of Somerset and in the counties near adjacent," "William Screven of Somerton" is one of twenty-five subscribers in 1656. This, it is supposed, is the same William Screven, the immigrant to Carolina.

<sup>2</sup> *Hist. of the Baptist Ch., Charleston* (Tupper), 1889.

embarked on the 5th of December, 1695, in two small vessels, and experienced a severe gale on their passage; but both vessels arrived safely in about fourteen days. The colony, treading their way up the Ashley River in quest of a convenient place for settlement, fixed upon a spot which they named Dorchester. Here, in the midst of an unbroken forest, inhabited by beasts of prey and savage men, twenty miles from the dwelling of any white man, they took up their abode, and remained nearly sixty years, keeping together as a distinct community. Finding the situation unhealthy and confined to a tract of land too small for their purposes, they again moved in 1752 and settled at Medway, Liberty County, Georgia. Several families of Colleton County, however, came from the stock, and it is believed that many of the people in that section of the State are derived from this source. The ruins of their fort and of their church may yet be seen near Summerville.<sup>1</sup>

The colony was continually receiving new additions from Barbadoes and the other West India Islands, bringing with them their negro slaves. These were all Church of England people, and formed a great part of the church party in the colony. They settled principally upon the Cooper River; some of them were of the Goose Creek men of whom the Proprietors warned Ludwell to beware.<sup>2</sup>

<sup>1</sup> Howe's *Hist. of the Presb. Ch.*, 120-122.

<sup>2</sup> Sir John Colleton, one of the Proprietors, was from Barbadoes, and so were his two brothers, James, the Governor, and Major Charles Colleton. From that island came Sir John Yeamans, the Landgrave and Governor; Captain John Godfrey, Deputy; Christopher Portman, John Maverick, and Thomas Grey, among the first members-elect of the Grand Council; Captain Gyles Hall, one of the first settlers, and an owner of a lot in Old Town; Robert Daniel, Landgrave and Governor; Arthur and Edward Middleton, Benjamin and Robert Gibbes, Barnard Schinkingh, Charles Buttall, Richard Dearsley, and Alexander Skeene. Among others from Barbadoes were those of the following names: Cleland, Drayton, Elliot, Fenwicke, Foster, Fox, Gibbon, Hare, Hayden, Lake, Ladson,

The early settlers followed the river courses, and planted themselves upon their banks. There were probably two causes inducing this: the rivers presented the only means of transportation in the absence of roads, and the way also of escape from the Indians. The innumerable creeks, branches, and inlets from the sea, which intersect the low country, presented abundance of room for many years to allow river front to almost every plantation. Then followed the filling up of the islands and peninsulas, the settlements still, however, continuing within easy access to water. The banks of the Ashley were first settled under Sayle, the western bank most thickly. The Cooper River was next followed, and a settlement made upon Goose Creek, its first considerable branch, and also on the east between that river and the Wando. The destruction of Lord Cardross's colony put a stop for many years to any settlement at Port Royal; but the sea islands, those now known as James, John's, and Edisto islands, were soon peopled. The French refugees had pushed up the Cooper, as we have seen, until they had reached the Santee. A map made in 1715<sup>1</sup> shows that the population of South Carolina was still confined almost entirely between the Santee on the northeast and the Edisto on the

Moore, Strode, Thompson, Walter, and Woodward. Sayle, the first Governor, was from Bermuda. From Jamaica came Amory, Parker, Parris, Pinckney, and Whaley; from Antigua, Lucas, Motte, and Percy; from St. Christopher, Rawlins and Lowndes; from the Leeward Islands, Sir Nathaniel Johnson, the Governor; and from the Bahamas, Nicholas Trott, the Chief Justice. Some of these were probably but temporarily on the islands; some had been long-established residents.

This list has been compiled, with the assistance of Langdon Cheves, Esq., from various sources, including *Emigrants to America, 1600-1700* (Hotten).

<sup>1</sup> *Year Book City of Charleston* (Courtenay), 1886. Copied from an original map of principal part of North America, in the library of Thomas Addis Emmet, M.D., of New York.



southwest. Generally speaking, the old English colonists and the Barbadians, who together composed the Church of England people, were settled in Charles Town and upon the Cooper and Ashley rivers ; the French Huguenots on the Santee ; and English dissenters who had come out with Blake and Axtell upon the Edisto. There were, however, Independents, Baptists, Quakers, and Huguenots in the town.

Berkeley County was thus for the Church of England, Colleton was strongly imbued with dissent, and Craven, while Calvinistic in its tenets, was without hostility to the church. The colonists had crossed the seas and changed their climate, but not their minds ; they had brought with them their Old World thoughts, opinions, and prejudices. Indëed, was it not on account of these, and that they might have liberty to enjoy them, that many had deserted their homes and sought refuge in the wild woods of America ? All were more or less earnest in their religious convictions and sentiments, and clung to them as matters of vital consequence even while neglecting to be ruled in their lives by the principles they professed. In this small community of less than 6000 there were churchmen from England and Barbadoes, Independents from England, Old and New, Baptists from Maine, and Huguenots from France and Switzerland ; all zealous of their peculiar religious tenets and many, if not most, with the tenacity of bigotry and fanaticism. Carolina was a Church of England province under its charter, and the Fundamental Constitutions, while offering the greatest religious freedom, provided only that God was acknowledged and publicly and solemnly worshipped, still provided for the establishment and maintenance of that church. Every one that came to the colony came with full notice of these provisions. Yet the Proprietors

could truthfully write to Archdale that Carolina was looked upon as a place of refuge and safe retreat from arbitrary government and the inconveniences of other places.<sup>1</sup> But it was inevitable that the Old World's animosities must needs soon break out among these various people. They had, indeed, been alive from the very planting of the colony.

It is not certainly known, as we have before observed, when the first clergyman appeared in the colony, or when the first church was built. Dalcho places at the head of his list of the clergy the name of the Rev. Morgan Jones, as arriving in 1660, but does not mention such a person in the text of his work. Dalcho's authority for this is a letter written by this person in New York, March 10, 1685-86, in which he claims to have been sent from Virginia by Sir William Berkeley, to meet the fleet from Barbadoes and Bermuda under West. He states that as soon as the fleet came in, the small vessels with them sailed "up the River" to a place called Oyster Point, where he remained for eight months.<sup>2</sup> If the writer met the expedition, it is clear that he antedated the event by ten years. He states that he remained in the colony at Oyster Point for eight months. It will be observed that the colony first settled Old Town on the Ashley in 1670 and was not removed to Oyster Point until 1680. Nor can we reconcile his statement by supposing it a mere mistake as to the date, for the date was the very point about which his letter was written, the object of it being to show that the title of England to America by possession was prior to that of Spain; moreover, even upon the supposition of a mistake as to the date, we remember that, on June 25, 1670, at the very time Morgan Jones would thus claim to have been in the colony, *i.e.* eight months after the

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 138.

<sup>2</sup> *Gentleman's Magazine*, for March, 1740, vol. X, 103, 104.

arrival of the fleet, from March to October, 1670, Sayle wrote to Lord Ashley about the want of a minister, asking that one should be sent, — a request which was renewed by Sayle and others in the September following. The letter we are constrained to believe a mere fabrication.<sup>1</sup> Mr. Bond, for whom Governor Sayle applied in 1670, certainly did not come out.

We have no account of the building of any church in Old Town on the Ashley, though Culpepper supposed that a tract marked out as reserved by the Proprietors was intended for a minister. It is possible that the Rev. Atkin Williamson may have officiated there. The removal of the town took place in 1680, and in the plan of the new town, 1672, as we have seen, a place had been reserved for the building of a church, but no church had been built when Thomas Ash arrived with the first Huguenots in 1680. In a deed dated January 14, 1680–81, by which four acres of land were granted to Mr. Williamson, it is recited that the donors, Originall Jackson and Meliscent his wife, “being excited with a pious zeal for the propagation of the true religion which we profess, have for and in consideration of the divine service according to the form and liturgy now established to be duly and solemnly performed by Atkin Williamson cleric his heirs and assigns for ever in our church or house of worship to be erected and built upon our piece or parcel of ground.”<sup>2</sup> It is not known that Mr. Jackson owned any land in or near the town. He did own land on the Wando or Cooper River. The description of the land in the deed does not allow of its identification. It is probable that this was an attempt to establish a church

<sup>1</sup> It is strange that Bishop Perry, in his *Hist. of the Amer. Episcopal Ch.* (vol. I, 372), should have adopted this extraordinary statement without examination, particularly as it was inconsistent with his statements in the very next paragraph of his work.

<sup>2</sup> Dalcho's *Ch. Hist.*, 26.



in the country in which Mr. Williamson was expected to officiate, as well as in the town;<sup>1</sup> but this is mere conjecture. Mr. Williamson, in 1709, petitioned the General Assembly "to be considered for his services in officiating as minister of Charles Town"; and the act of 1710-11, appropriating £30 per annum for his support, states that he "had grown so disabled with age, sickness and other infirmities, that he could no longer attend to the duties of his ministerial function, and was so poor that he could not maintain himself."<sup>2</sup> As we have before concluded, it is possible that Mr. Williamson came out in 1680. There was a clergyman in Carolina in 1689, for it was one of the tyrannical acts of Colleton that he fined and imprisoned him for preaching what he considered a seditious sermon;<sup>3</sup> but who this was, whether Mr. Williamson or another, is not known. Mr. Marshall, as we have just seen, had come out to be the minister at Charles Town, but died of yellow fever in 1699, before he had been three years in the province.

Mr. Marshall was an amiable, learned, and pious man, whose conduct and talents had given great satisfaction, and during whose short career much was done to establish the church upon a firm basis. Though Governor Blake was not himself a churchman, an act was passed during his administration, October 3, 1698, "to settle a maintenance on a minister of the Church of England in Charles Town." Oldmixon claims great credit for his patron, Governor Blake, for the passage and allowance of this provision as an act of grace upon his part, though he was a dissenter;<sup>4</sup> but the recital of the act

<sup>1</sup> Bishop Perry is again mistaken in supposing that it was upon this land that the first church, *i.e.* St. Philip's, was built.

<sup>2</sup> Dalcho's *Ch. Hist.*, 32. See *ante*, p. 332.

<sup>3</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 410.

<sup>4</sup> Oldmixon, *Carolina*, Carroll's *Coll.*, vol. II, 417.

(which is important, too, in regard to what was soon to follow) places its enactment upon the proper ground, namely, that of a compliance with the charter of the provision.<sup>1</sup>

The act appropriated a salary of £150 per annum to the ministers of Charles Town, and directed that a negro man and woman and four cows and calves be purchased for his use, and paid for out of the public treasury.<sup>2</sup> In the same year, Affra Coming, the widow of John Coming, made a deed, by which she gave to the Rev. Samuel Marshall, minister of the Gospel in Charles Town, and to his successors, appointed under the act just passed, seventeen acres of land adjoining the town as a glebe. Upon the death of Mr. Marshall, the Governor and Council addressed a letter to the Bishop of London, asking him to send another minister, telling him of the provision made for his support, and

<sup>1</sup> Dr. Humphrey, the secretary and historian of the "Society for the Propagation of the Gospel in Foreign Parts," states that upon an inquiry instituted by Dr. Compton, Bishop of London, it was ascertained that though in the year 1701 there were above 7000 persons besides negroes and Indians in South Carolina, and though the province was already divided into several parishes and towns, there was until the year 1701 no minister of the Church of England resident in the colony at the time. (*Hist. Account of the Soc. for the Propagation of the Gospel*, etc., 25.) This statement is altogether inaccurate: (1) There were not that number of persons in the colony at the time (Drayton's *View of So. Ca.*, 193; Dalcho's *Ch. Hist.*, 39); (2) the province was not then divided into parishes; there was but one town; and (3) there were at that time at least two ministers of the Church of England resident and officiating in the colony. The Rev. Samuel Marshall, rector of St. Philip's, had died in 1699, but Mr. Edward Marston had arrived and taken his place in 1700. The Rev. William Corbin was officiating in Goose Creek; and the Rev. Atkin Williamson was also in the province, though probably disabled.

<sup>2</sup> Dalcho's *Ch. Hist.*, 33. This act is not found in the statutes. The salary was probably payable in currency.

that a good brick house had been built for him upon the land given by Mr. Coming.

The first church, which was known as St. Philip's, was built, as before stated, upon the spot reserved for it, upon the original plat of the town, *i.e.* where St. Michael's now stands. Dalcho fixes the date of the erection at about 1681 or 1682, but there is nothing certainly known upon the subject. It was "large and stately," it was said, and was surrounded by a neat white palisade. It was built of black cypress upon a brick foundation. Mrs. Blake, wife of the Governor, subsequently contributed liberally towards its adornment, though not herself a member of the church.<sup>1</sup>

The Rev. Francis Mackensie, a Presbyterian clergyman of Donegal, Ireland, it is said, visited Carolina in the fall of 1683, with serious thoughts of settling at Charles Town; but from the little encouragement he received, he changed his destination to Virginia.<sup>2</sup> Of the Rev. William Dunlop, who came out with the Scotch colony and settled at Port Royal in 1684, we have already spoken.<sup>3</sup>

The mixed Presbyterian and Independent Church, known by various names,—the Presbyterian Church, the White Meeting,<sup>4</sup> the Independent Church, the New England Meeting, the Circular Church,—was first organized some time between 1680 and 1690. It was at first composed of Presbyterians chiefly from Scotland and Ireland, Congregationalists from Old and New England, and some of the French Huguenots, who were strictly Presbyterian in their form of church government. The first known

<sup>1</sup> Dalcho's *Ch. Hist.*, 26.

<sup>2</sup> Howe's *Hist. Presb. Ch.*, 76, 77.

<sup>3</sup> *Ante*, p. 215.

<sup>4</sup> Whence the name of "Meeting Street."



Presbyterian minister in the province, excepting the Rev. William Dunlop at Port Royal, was the Rev. Thomas Barret, in 1685. His ministry was but temporary. The first regular pastor was the Rev. Benjamin Pierpont, in 1691. He died January 8, 1697-98, and was succeeded by a Mr. Adams, of whom little is known; and he by John Cotton of Boston, who sailed from Charles Town November, 1688, and died September, 1699; and he by the Rev. William Stobo, upon his providential escape from the disastrous shipwreck and stranding upon the shores of Carolina. It is not known when the original building used by the church was erected. It was but forty feet square and slightly built.<sup>1</sup> The site whereon the present church stands was given by "Madame Symonds" October 23, 1704. It was long known as the "White Meeting."<sup>2</sup>

The first church of the French Protestants, known as the Huguenot Church, was erected at some time between the years 1687 and 1693. On the 5th of May, 1687, the lot whereon the present church stands was conveyed by Ralph Izard and Mary, his wife, to James Nichols "for the use of the commonalty of the French Church in Charles Town";<sup>3</sup> and in 1693, the congregation complained to the Lords Proprietors that they were required to begin

<sup>1</sup> Howe's *Hist. Presb. Ch.*, 124, 126, 145.

<sup>2</sup> *Ibid.*, 124.

<sup>3</sup> It has been supposed probable that the Huguenots built their first sanctuary upon the site of the present church early in the year 1681. (See *Year Book City of Charleston*, 1885, 297.) This theory is based upon the supposition that Michael Lovinge, the grantee of this lot, was but a trustee for the church. But the record shows that this is a mistake. Michael Lovinge, the grantee, described as a "sawyer," conveyed the lot to Arthur Middleton, the 24th of November, 1684. Arthur Middleton by will devised it to his daughter Mary, who, with her husband Ralph Izard, conveyed it to James Nichols for the church, as stated in the text. See Records, *Secretary of State's Office Book*, marked "Grants, Sales," etc., 1704-1708, 250.

their divine worship at the same time as the English do, which was very inconvenient, as several of them lived out of the town and came by water to attend their service, and had to depend upon the tides.<sup>1</sup> There must, then, have been a place of worship in which the congregation was accustomed to assemble before 1693, and it is but reasonable to suppose that this was upon the spot they had purchased for the purpose.<sup>2</sup> The Rev. Elias Prioleau, pastor of the church at Pons, who, upon the Revocation of the Edict of Nantes, left France with a considerable number of his congregation in April, 1686, and came to Carolina, is regarded as the founder of this church in conjunction with the Rev. Florente Philippe Trouillard, who were its first ministers. They served the church as colleagues, and probably without compensation, both ministers and people being dependent alike on secular employment.

One César Moze, a French refugee, by his will written in his native language, dated June 20, 1687, bequeathed to the church of the French refugees in Charles Town, *trente sept lieures* (thirty-seven livres) to assist in building a house of worship in the neighborhood of his plantation on the eastern branch of the Cooper River.<sup>3</sup> As already mentioned, it is probable that Elias Prioleau ministered to this congregation. The Rev. de La Pierre is supposed to have been their first pastor. There was another settle-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 438.

<sup>2</sup> Howe's *Hist. Presb. Ch.*, 109. Mr. Fraser, in his *Reminiscences of Charleston*, says that the great fire of June, 1796, "burnt the original French Church where the Huguenot refugees worshipped for upwards of a century previous to that time." (pp. 33, 34.) But Shecut states that the original church (which he says was built in 1701) was burnt in 1740 with all its records.

<sup>3</sup> Probate office, Charleston, South Carolina, *Will Book*; Howe's *Hist. Presb. Ch.*, 108.

ment and church of the Huguenots on the western branch of Cooper River, of which Anthony Cordes, *un médecin*, who arrived in Charles Town in 1686, was one of the founders. Their first pastor was Rev. Florente Philippe Trouillard, whom we have just found associated with Elias Prioleau in the pastorate of the church in Charles Town. The Rev. Pierre Robert was the first pastor of the church in French Santee. Indeed, he is said to have been the first Calvinistic minister who preached in South Carolina; and it is deemed questionable whether this church was not older even than that in Charles Town. The Huguenots on Goose Creek are not known to have formed an organized congregation.<sup>1</sup>

Most of the members of the Baptist colony had moved to Charles Town before 1693. At first their meetings were held in the house of William Chapman in King Street. In 1699 William Elliott, one of the members, gave the church the lot of land on Church Street on which the First Baptist Church in Charleston now stands, and a house of worship was erected on this lot in that or the year following.<sup>2</sup>

No considerable groups of settlers are known to have emigrated to South Carolina between the years 1696 and 1730, nor does the white population appear to have in-

<sup>1</sup> Howe's *Hist. Presb. Ch.*, 111-113. There is, however, an old plat of a plantation on one of the head branches of Goose Creek, made by Joseph Purcell, Surveyor, in July, 1785, on which a spot is marked "Remains of a French Church." See Deed, *Mesne Conveyance Office Book G*, No. 6, 95.

<sup>2</sup> *Hist. of the First Baptist Ch.*, 55. The first church building was, however, abandoned for another built on the east side of the street in 1746, the old lot on the west side continuing to be the burial-ground of the members. The present edifice on the old lot on the west side was erected in 1822, and the building on the east became the Mariners' Church, which was destroyed in the earthquake of 1886. See Shecut's *Essays*, 5, 29.



creased at all until after 1715. In 1699 it was, as we know, probably about 5500. In 1708, as we shall hereafter see, it had actually declined to 4080. There was a decrease also in the number of negroes during this period. The losses by smallpox and yellow fever will probably account for much of this; but the neglect and mismanagement of the Proprietors, and the struggle over the establishment of the church which we are soon to record, no doubt retarded the progress of the colony. We may assume, therefore, that the proportion of the various denominations in the colony was about the same in 1710 as it was at the time of which we are now treating. In a letter written in that year by a Swiss gentleman in Charles Town to his friend at Bern, it is stated that the proportions that the several parties in religion bore to the whole and to each other were as follows: Church of England  $4\frac{1}{4}$  to 10; Presbyterians, including those French who retained their own discipline,  $4\frac{1}{2}$  to 10; Anabaptists 1 to 10 and Quakers  $\frac{1}{4}$  to 10.<sup>1</sup> In this estimate, for it is nothing more, Independents and Congregationalists, as well as Huguenots, are included as Presbyterians. There were in the colony at this time eight ministers of the Church of England, three French Protestants, two of whom had accepted Episcopal rule and observed the services of the church, four of British Presbyterians, one of Anabaptists. The ministers of the Church of England had, by the act of 1706, each £100 per annum from the public treasury besides contributions and perquisites from their parishioners. The dissenting ministers were maintained by voluntary contributions.<sup>2</sup>

In 1701 a movement was consummated in London by

<sup>1</sup> Howe's *Hist. Presb. Ch.*, 163; *A Letter from So. Ca.*, etc., London, 1722 (second edition), 46.

<sup>2</sup> *Ibid.*, and Daleho's *Ch. Hist.*, 432.

the formation and incorporation of "The Society for the Propagation of the Gospel in Foreign Parts," which exercised a great influence in this colony, not only in religious matters, but in the education of its youth. Several eminent persons, observing the want of clergy in the colonies of England and probably also the unfortunate character of some who had gone out to the provinces, had for some time before contributed to an effort for recovering their countrymen abroad from irreligion and darkness. Fellowships had been established in Oxford, the beneficiaries of which should be under obligation to take holy orders for service in his Majesty's foreign plantations, and salaries were provided for "preaching ministers."

The society resolved not to obtrude the Episcopal services upon the colonists against their wishes. They did not, therefore, send missionaries until applications were made for ministers of the Church of England, nor until they were assured that adequate means would be provided for their comfort and support. So liberal, indeed, was this society that in some instances they supported clergymen who were not episcopally ordained. As instances: the two Huguenots, the Rev. de La Pierre of St. Denis and Rev. P. de Richbourg of St. James, Santee (1715-20). The society was very minute in its instructions to the clergy they employed. They were to keep in view the great design of their undertaking; to promote the glory of Almighty God and the salvation of men, by propagating the Gospel of our Lord and Saviour. The directions in regard to the instruction of negroes were still more minute and explicit, containing the simple statement in logical order and consequence of the substance of the Christian religion.

The society was equally careful in its directions to their schoolmasters, and impressed upon them that the end of

their employment was the instructing and disposing children to believe and live as Christians. They were required to oblige their scholars to attend regularly upon the services of the church and to have them publicly catechised. "They were to take special care of their manners both in and out of school; warning them seriously of those vices to which children are most liable; teaching them to abhor lying and falsehood and to avoid all sorts of evil speaking; to love truth and honesty; to be modest gentle well-behaved, just and affable, courteous to all their companions; respectful to their superiors particularly towards all that minister in holy things and especially to the minister of their Parish."<sup>1</sup>

These instructions of the society are particularly pertinent to the history of South Carolina, as it was in this province that the society commenced its labors, and indeed did the most of its work. Its influence remained not only in the religious sentiment of the people, but in their system of education, which the masters from Oxford sent out by them, based upon a classical foundation.

The first missionary sent out by the society upon the application of the Governor and Council was the Rev. Samuel Thomas, who was appointed in June, 1702. His original mission was not to the colonists, but to the Yamassee Indians, who surrounded the settlements; but Governor Johnson, not deeming it a convenient season for that duty, appointed him to the care of the church at Goose Creek. His ministry, however, though attended with considerable success, was but a brief one; on his return from England, to which he had gone on a visit, he died in 1705.

<sup>1</sup> Dalcho's *Ch. Hist.*, 50.



## CHAPTER XV

1700

AT the opening of the new century, says Rivers, we must cease to look upon South Carolina as the home of indigent emigrants struggling for subsistence.<sup>1</sup> The colony had now substantial numbers, and its various elements had begun to settle themselves into somewhat of a community. The spirit of adventure had, in a measure at least, given way to the more sober purpose of citizenship. A review of its material condition will show what had been accomplished in the thirty years since the arrival of the first emigrants.

The population, which, as we have seen, was about 5500 besides Indians and negroes, was still clustered around the town in a comparatively small area; more than half, about 3000, were inhabitants of the town. There were, at least, 250 families residing in it, many of them having ten or twelve children each. The town still, however, comprised only the space between the bay and the present Meeting Street. The principal street running through its whole length was the present Church Street. The cross streets were Queen, Broad, Elliot, and Tradd, though not then bearing these names. It was fortified, says Oldmixon, more for beauty than strength. It had six bastions, and a line all around it. There were three bastions on Cooper River. Craven Bastion was on the northeast corner of the town, at the end of what is now Market Street;

<sup>1</sup> *Chapter in Colonial Hist.* (Rivers).

Blake's Bastion at the end of Broad Street, about where now stands the Old Exchange, the postoffice; Granville's Bastion stood where the battery now begins. From this point a creek ran up what is now Water Street, and a line of palisades extended on its northern bank, through what is now Stoll's Alley and the Baptist churchyard, to the corner of Tradd Street; thence along what is now Meeting Street to Cumberland; the northern line running diagonally from about the corner of Meeting and Cumberland to what is now Market Wharf. At the intersection of Broad Street was a half-moon, a little later called Johnson's Raveline, across which there was a drawbridge. Carteret Bastion was on the northwest corner, where Cumberland and Meeting streets now meet.

The only public buildings were the churches, an account of which was given in the last chapter. Charles Town was the market town, and thither the whole product of the province was brought for sale.<sup>1</sup> Archdale declares that the road out of the town, which he says was called the Broadway, was so delightful a road and walk, so beautiful with odoriferous and fragrant woods, and pleasantly green all the year, that he believed no prince in Europe, by all his art, could make so pleasant a sight.<sup>2</sup> There were also several fine streets in the town, says Oldmixon, and some very handsome buildings, as Mr. Landgrave Smith's house on the bay, with a drawbridge and wharf to it; Colonel Rhett's, also on the bay, and with drawbridge and wharf. He mentions also Mr. Boone's, Mr. Logan's, Mr. Schinking's, and ten or twelve others which deserve notice. There was a public library in the town, he says, and a free school was talked of.<sup>3</sup>

<sup>1</sup> *British Empire in Am.*, vol. I, 510 (Oldmixon).

<sup>2</sup> Archdale, in Carroll's *Coll.*, vol. II, 95.

<sup>3</sup> *British Empire in Am.*, vol. I, 511.

Lawson, who wrote about the same time, gave this description :<sup>1</sup> —

“The Town,” he says, “has very regular and fair Streets in which are good Buildings of Brick and Wood, and since my coming thence has had great Additions of beautiful, large Brick building besides a strong Fort and regular Fortifications to defend the Town. The inhabitants by their wise Management and Industry have much improv’d the Country which is in as thriving Circumstances at this time as any Colony on the Continent of *English* America, and is of far more Advantage to the Crown of *Great Britain* than any of the other more *Northerly* Plantations (*Virginia* and *Maryland* excepted). This colony was at first planted by a genteel sort of People that were well acquainted with Trade and had either Money or Parts to make good use of the Advantages that offer’d as most of them have done by raising themselves to great Estates and considerable Places of Trust and Posts of Honour in this thriving Settlement. Since the first Planters abundance of *French* and others have gone over and rais’d themselves to considerable Fortunes. They are very neat and exact in Packing and Shipping their Commodities; which Method has got them so great a Character abroad that they generally come to a good Market with their Commodities, when often times the Product of other Plantations are forc’d to be sold at lower Prizes. They have a considerable Trade both to *Europe* and the *West Indies* whereby they become rich and are supply’d with all Things necessary for Trade and genteel Living which several other Places fall short of. Their cohabiting in a Town has drawn to them People of most Sciences, whereby they have Tutors amongst them that educate their Youth a-la-mode.”

<sup>1</sup> *A New Voyage to Carolina, etc.*, 2, 3.



The first act in order of time found remaining when the statutes were compiled in 1837 was one entitled "*An act for the settling of a pilot*," April 11, 1685.<sup>1</sup> It was, however, so defaced as to be illegible, but we have preserved one passed under Sothell, March 25, 1691, no doubt based upon that of 1685. This appointed three regular pilots who were required to make it their business to look out for ships coming into the harbor, regulating their conduct and prescribing the rates of pilotage.<sup>2</sup> In 1694 an addition to this act was made providing for the maintenance of a watch on Sullivan's Island as well.<sup>3</sup> In 1696 this was again added to and amended, and rates for bringing in vessels by the different channels prescribed.<sup>4</sup> These pilots Lawson found on duty when he arrived in 1700.<sup>5</sup> There was need of them; for from the town could now be seen entering the harbor vessels from Jamaica, Barbadoes, and the Leeward Islands, from Virginia and the other colonies, and the always welcome ships from England. About twelve of these ships were owned by the colonists, half of which were built by themselves.<sup>6</sup> These were, however, small; for, unhappily, the bar across the mouth of the harbor admitted no ships of above 200 tons.<sup>7</sup> Archdale, writing in 1707, says he could demonstrate what a great advantage Carolina is to the trade of England by consuming commodities from thither, and by bringing great duties to the

<sup>1</sup> *Statutes*, vol. II, 3.

<sup>3</sup> *Ibid.*, 93.

<sup>2</sup> *Ibid.*, 50.

<sup>4</sup> *Ibid.*, 127.

<sup>5</sup> *A New Voyage to Carolina*, 6.

<sup>6</sup> *Chapter in Colonial Hist.* (Rivers).

<sup>7</sup> *British Empire in Am.*, vol. I, 570.

Yet in an offer made by the Assembly in 1703 to supply a frigate with provisions, if one should be sent from England to cruise on the coast, it is said that Charles Town bar had "thirteen feet of water at high tide-water at neap tides, and fifteen feet at spring tides at least," and Port Royal eighteen feet at low tides and twenty-four at high water on ordinary tides. *Hist. Sketches* (Rivers), 202, note.

Crown by importing goods or commodities thence: "For Charles Town trades near 1000 miles into the continent." That notwithstanding all the discouragements the town had met withal, yet seventeen ships that year came thence to London in the Virginia fleet laden from Carolina with rice, skins, pitch, and tar, besides several stragglers.<sup>1</sup>

The neck of land between Cooper and Ashley rivers, about six miles in length, was well settled. One passed about this time, in riding up the road which Archdale described as so beautiful, the plantations of Mathews, Green, Starkey, Gray, Grimball, Dickeson, and Izard on the Cooper; and further up those of Sir John Yeamans, Landgrave Bellinger, Colonel Gibbs, Mr. Schenkingh, Colonel Moore, and Colonel Quarry. On the Ashley Landgrave West, Colonel Godfrey, and Dr. Trevillian had plantations. Goose Creek was thickly settled. On the western branch of the Cooper River the most noted plantations were "Coming T," the plantation of Captain John Comings, the same who had come out with Halsted, and Sir Nathaniel Johnson's "Silk Hope." In Colleton County lived Colonel Paul Grimball, Landgraves Morton, Blake, and Axtell, and Mr. Boone. There were two small towns or hamlets besides Charles Town, — Wiltown or New London on the South Edisto, containing about eighty houses, and Dorchester at the head of the Ashley, containing about 350 souls.<sup>2</sup>

The Governor generally resided in Charles Town and the Assembly sat there, as well as the newly established courts. There also the public offices were kept and the business of the province transacted.

The first fortunes in Carolina were made in the Indian trade, a trade which the Proprietors jealously endeavored

<sup>1</sup> Carroll's *Coll.*, vol. II, 97.

<sup>2</sup> *British Empire in Am.*, vol. I, 512, 513.

to appropriate to themselves. Guns, powder and shot, beads, trinkets, bright-colored cloaks, blankets, and rum were exchanged for skins and furs of wild animals and other Indian pelfry. With the exception of rice, the furs and skins obtained from the Indians continued to be the most valuable commodity in the colonial trade as late as 1747.<sup>1</sup>

Dr. Henry Woodward, it will be remembered, was the first explorer of the province. From his sojourn with the Indians, when left by Sandford in 1666, he became an interpreter of their languages, and as such was employed by the Governor and Council in their communications and treaties with them. In 1671 Sir John Yeamans sent him to Virginia upon an expedition of discovery, upon which occasion, reciting the hazardous and dangerous nature of the adventure he was about to undertake, he executed a will of all his property in Sir John's favor, which will is among the first records of the colony.<sup>2</sup> There were many complaints to the Proprietors of this mission, implying that the expedition was for the private advantage of Sir John and himself. Dalton, the Secretary, wrote that it might "be dangerous to follow the fancies of roving heads," and asked that a skilful engineer should be sent.<sup>3</sup> Woodward was still employed, however, by the Proprietors, and in 1674 was commissioned to treat with the Indians of Edisto for the purchase of that island, and was allowed to have one-fifth of the profits of the Indian trade.<sup>4</sup> He was evidently not a favorite of Governor West, during whose administration he appears to have

<sup>1</sup> Governor Glen's *Description of So. Ca.*, Carroll's *Coll.*, vol. II, 234-237.

<sup>2</sup> Probate office, Charleston, South Carolina, and Secretary of State's office, Columbia, South Carolina.

<sup>3</sup> *Calendar State Papers, Colonial*, 1670-74, 736-746.

<sup>4</sup> *Ibid.*, 1287.



been convicted of some misdemeanor by the Grand Council and condemned to pay £100; a part of which he paid, and left the province. The Proprietors, however, pardoned him; and again, on the 23d of May, 1682, commissioned him to return to Carolina and make further explorations.<sup>1</sup> There is no account of his subsequent career.

In Archdale's time, as we have said, Charles Town traded near 1000 miles into the Continent.<sup>2</sup> Among the principal Indian traders were Colonel Bull, Governor Blake, and James Moore.<sup>3</sup> James Moore, who first appeared as one of the leaders of the people in 1684, was also a great adventurer and Indian trader. He was a member of the Council as deputy of Sir John Colleton, and Secretary of the province. He it was of whom Randolph wrote to the Lords of Trade, in March, 1798-99, that he had heard one of the Council (a great Indian trader who had been 600 miles up in the country west of Charles Town) declare that the only way to discover the Mississippi was from the province by land. This he was willing to undertake if his Majesty would pay the charge of the expedition, £400 or £500. He proposed to employ 50 white men and 100 Indians, and had no doubt but that in five or six months after his Majesty's commands he would find its mouth and latitude.<sup>4</sup>

The real object of this expedition Moore proposed was not, however, the discovery of the Mississippi, but the exploring of gold and silver mines. In 1691 he had made a journey into the Appalachian Mountains, in which journey he had found several pieces of ore which he had sent to England to be assayed, and some of which had been

<sup>1</sup> *Public Records of So. Ca.* (MSS.), vol. I, 159.

<sup>2</sup> Carroll's *Coll.*, vol. II, 97.

<sup>3</sup> *Ibid.*, 108; *Coll. Hist. Soc. of So. Ca.*, vol. I, 217.

<sup>4</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 445.

reported to be very valuable, and he now wished to make further exploration at his Majesty's expense. In the meanwhile, one Thomas Cutler had come out with a commission from the Lords of Trade to search for mines, but he was wholly inexperienced in the matter, and relied entirely upon the stories which two brothers-in-law of his in Carolina, Edward Loughton and David Maybank, had gathered from the Indians. Moore soon persuaded Cutler that he alone possessed the necessary information and skill to find and develop the mines, and induced him to return to London to represent to the Board of Trade that he, Moore, was a person of known experience, judgment, and great power among the Indians, and had more perfect knowledge of the mines than those they had first relied upon. The Board of Trade, however, very curtly informed Mr. Cutler and his friend, Mr. Smith, who accompanied him, "that their Lordships do not concern themselves nor meddle in what Captain Moore desires of them & what they the said Smith and Cutler think fit to do upon his request."<sup>1</sup> We hear no more of the mines in Carolina.

Both cotton and rice had been exported from Carolina before the end of the seventeenth century. Hewatt and Ramsay credit Landgrave Smith with the introduction of rice culture. The former gives an interesting story of a bag of seed rice, obtained by him from a brigantine from the Island of Madagascar, touching here on the way to Great Britain in 1693, and his distribution of it between Stephen Bull, Joseph Woodward, and some other friends, who agreed to make the experiment, and planted their several parcels in different soils.<sup>2</sup> But Rivers very properly declines to adopt this account, and points to an act of

<sup>1</sup> *Hist. Sketches of So. Ca.*, Appendix, 447, 453.

<sup>2</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 118 ; Ramsay's *Hist. of So. Ca.*, vol. II, 200.

Assembly in 1691 conferring a reward upon Peter Jacob Guerard, inventor of a "Pendulum engine" for husking rice, which it was said was superior to any machine *previously used* in the colony.<sup>1</sup> Rice was, with indigo, one of the plants to be tried by West on the experimental farm under instructions of July, 1669.

In a bill of lading, 1671, from London, per ship *William and Ralph* bound for Charles Town, Ashley River, there was, among other articles in the cargo, "a barrel of Rice." Mayor Courtenay, in his address upon the centennial of the incorporation of Charleston, quotes from a curious pamphlet by a gentleman in 1731, long resident in Carolina, "Dr. Woodward's" name, mentioned as receiving a parcel of seed rice from "Madagascar." Dr. Woodward appears, however, to have been ignorant for some years how to clean it for use. He quotes also from this pamphlet that it was likewise "reported that Du Bois, Treasurer of the East India Company, did send to Charles Town at an early date a small bag of seed rice, some short time after Dr. Woodward's planting of Rice, from whence it is reasonable enough to suppose might come those two sorts called Red Rice — from the redness of the inner husk — and white Rice, though they both clean and become white alike."<sup>2</sup> From these accounts it is quite certain that rice was received from Madagascar and experimented upon by Smith, Bull, Woodward, and others, but had been introduced and planted before. However introduced, rice soon became the staple commodity of the province, and the advantageous employment of Africans in its cultivation greatly increased the demand for negro slaves. The wet, deep, miry soil of the cypress swamp, in which rice was found to grow so luxuriantly, especially when turned in

<sup>1</sup> *Hist. Sketches of So. Ca. (Rivers)*, 172; *Statutes*, vol. II, 63.

<sup>2</sup> *Year Book City of Charleston* (Courtenay), 1883, 395.



cultivation, proved to be fatal to the white man, but congenial to the negro from Africa.

Notwithstanding the failure of the Huguenots to establish the manufacture of silk, the attempt was made by Sir Nathaniel Johnson upon a plantation settled by him in what was afterwards St. Thomas' Parish, called Silk Hope, and in 1699 he was able to present to the Proprietors a sample of silk made by him.<sup>1</sup> When Oldmixon wrote (1707), Sir Nathaniel was making from £300 to £400 yearly from silk alone. Others, encouraged by him, also experimented, and some families were then making from £40 to £50 a year without neglecting their other plantation work. Little negro children were employed in feeding the silkworms. Silk and wool were manufactured into druggets.<sup>2</sup> As mulberry trees grow spontaneously in Carolina, and native silkworms producing well-formed cocoons are often found in the woods, it appears that this country was well adapted to the development of the industry; but though again tried by the Swiss near Purysburg in 1731, and again by the French colony at New Bordeaux, Abbeville, in 1764, its manufacture has never been persevered in, probably, says Dr. Ramsay, because there were easier modes of making money.<sup>3</sup>

The produce of the Indian trade, rice, and the silk that was made, were sent to England; beef, pork, corn, peas, butter, tallow, hides, tanned leather, hogshead and barrel staves and hoops to the West Indies. Though there were no cattle in the province upon the first coming of the colony, they had increased to such an extent in thirty years that not only did beef and pork constitute two of the principal commodities of export, but wild cattle became

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 149.

<sup>2</sup> *British Empire in Am.*, vol. I, 517.

<sup>3</sup> Ramsay's *Hist. of So. Ca.*, vol. II, 220.

almost as great a nuisance in Carolina as the rabbit in later years in Australia. In 1695, as we have seen, an act had been passed for destroying unmarked cattle in consequence of the inability of penning and marking them at that time, by reason of a hurricane which had rendered the woods difficult of travel. Eight years afterwards another act upon the subject was deemed necessary. This act, which recited that the great numbers of wild, unmarked, and outlying cattle had drawn the tame cattle from their ranges, and also ate up the winter food, curiously assuming that every master or mistress of a plantation owned "such cattle," required every owner of a plantation who would not swear that, to the best of his knowledge, he did not own 100 head to any one or more of his stock houses or cow pens to send one man for every 100 head to commissioners appointed under the act to hunt for, kill, and take wild and unmarked cattle. The men so sent were to be mounted, and to hunt under the direction of the commissioners. The owners of any marked cattle taken up in this way were allowed to claim and prove their property under provision of the act.<sup>1</sup> This prolific produce of cattle in the swamps of the low country was the origin of the stock law of South Carolina which so long impeded the full cultivation of the soil by requiring planters to maintain fences to keep out cattle from their plantations and farms, rather than the owners of cattle to provide enclosures for keeping them in; a policy which existed and extended all over the State for more than two hundred years, being only abandoned in the year 1882.<sup>2</sup> Oldmixon states that some persons had 1000 head of black cattle each. For one man to have 200 was very common. Hogs were in great abundance, roving for miles, feeding

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 220.

<sup>2</sup> *Ibid.*, vol. XVII, 591.

on nuts and roots.<sup>1</sup> Lawson says that the stocks of cattle were incredible, being from 1000 to 2000 head in one man's possession.<sup>2</sup>

The black cattle did not, however, have the swamps to themselves; these regions were still alive with beasts of prey, from which the planters suffered much, and so rewards were offered in 1703 for their destruction; a white man was offered 10s. for every wolf, tiger (panther), or bear killed by himself or his slave and 5s. for every wild cat; an Indian was offered 5s. for every wolf or tiger and 2s. 6d. for every wild cat.<sup>3</sup>

The first attempt to establish a postoffice in the colony was made in 1698. In an act for raising a public store of powder, provision was made requiring every master of a ship arriving in the province to deliver all the letters in his custody, with an exact list of them, to Mr. Francis Fidling and to no other, and this list Mr. Fidling was required to fix up in some public place in his house, to be viewed by persons who desired to do so. He was to deliver the letters to whom they were addressed and to mark the delivery on the list. He was to receive for each letter or packet one-half royal postage.<sup>4</sup> In 1702 another act upon the subject was passed, entitled "*An act to erect a General Postoffice*"; but it did little more than appoint Mr. Edward Bourne postmaster in place of Mr. Fidling.<sup>5</sup>

In the same year that a postoffice was established in the

<sup>1</sup> *British Empire in Am.*, vol. I, 520, 521.

<sup>2</sup> *A New Voyage to Carolina*, 4.

<sup>3</sup> *Statutes of So. Ca.*, vol. II, 215.

<sup>4</sup> *Ibid.*, 153, Section X, of an act entitled "*An act for the raising of a public store of Powder for the defence of the province.*"

<sup>5</sup> *Ibid.*, 189. In 1692 a Royal patent was granted to Thomas Neale to establish postoffices in America, which was recognized by an act of Assembly in Virginia. Bruce's *Economic Hist. of Va.*, vol. II, 240. We find no mention of it in Carolina.



colony, *i.e.* in 1698,<sup>1</sup> a public library was formed by the efforts of the Rev. Thomas Bray, the Bishop of London's commissary in Maryland, with the aid of the Lords Proprietors and contributions of the Carolinians, and was placed under the charge of the minister of the Church of England. This, it is believed, was the first public library in America. In the year 1700 an act was passed "*for securing the Provincial Library at Charles Town,*" by which commissioners and trustees were appointed for its preservation.<sup>2</sup> On the 16th of January, 1703, Nicholas Trott informs the House of Commons that Dr. Bray had sent sundry books as a further addition to the public library, together with additional books for a layman's library, upon which he was instructed to write to Dr. Bray returning thanks for them.<sup>3</sup> In May following the Receiver was instructed to pay Edward Moseley £5 15s. for transcribing the catalogue of the library books.<sup>4</sup> In the church acts of 1704 and of 1706 a room was reserved in the rectory of the minister of Charlestown for this library;<sup>5</sup> and in that of 1712, also reserving the room in the parsonage, other commissioners were named in the place of five who had died, and provision was supplied for supplying vacancies thereafter. The provision of this latter act we shall give more fully hereafter. By the first act all inhabitants, without any exception, were at liberty to borrow any book out of the library, giving a receipt for the

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 231; *MSS. Journals House of Commons*, 1698.

<sup>2</sup> These commissioners were James Moore (then Governor), Joseph Morton, Nicholas Trott, Ralph Izard, Esq., Captain Job Howes, Captain Thomas Smith, Mr. Robert Stevens, Mr. Joseph Crosskeys, and Mr. Robert Fenwick. *Statutes of So. Ca.*, vol. II, 374.

<sup>3</sup> *MSS. Journals*, 1703.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Statutes of So. Ca.*, vol. II, 237, 286.

same; but, as we shall see, the act of 1712 put it in the power of the librarian to refuse to lend books in certain cases. There were also parochial libraries established by the Society for the Propagation of the Gospel and afterwards by Sir Francis Nicholson and other charitable persons. These the commissioners were also instructed to examine by the catalogue. The parochial libraries were probably only of religious works; but the public library in Charlestown was a library for laymen as well.<sup>1</sup>

As before suggested, the Barbadian element in the colony naturally exerted the greatest influence upon the development of its society. The charter required that the laws should be as near as may be to the laws of England; but these were also to be suitable to the novel conditions of the new province. In the other colonies of America society was built up from its very foundations upon the peculiar circumstances of each. Its structure in each instance was entirely new. But many of the earliest settlers of Carolina coming from Barbadoes, where a colonial society was already fully developed, as before observed, brought with them customs and precedents upon which that of South Carolina was formed.

In 1674 upon the Island of Barbadoes, which was not much larger than the Isle of Wight, there were 50,000 whites and 80,000 negroes, — 130,000 souls in all. In fifty years, since the foundation of the English colony there, a social order had been established and developed upon the basis of African slavery. As it was this which the Barbadians brought with them to Carolina, some account of its condition at this time will not here be out of place.

Oldmixon tells us that the inhabitants of Barbadoes

<sup>1</sup> *Statutes of So. Ca*, vol. II, 374. The new commissioners under this act were Hon. Charles Braun, Governor Arthur Middleton, Charles Hart, Colonel George Logan, and Colonel Hugh Grange.

were ranked in three orders: Masters, — who were either English, Scots, or Irish, with some few Dutch, French, and Portuguese Jews, — white servants, and slaves. The white servants were either by covenant or purchase; there were two sorts, — such as sold themselves in England, Scotland, or Ireland for four years or more, and such as were transported by the government of England for capital crimes. The gentlemen of Barbadoes scorned, he says, to employ any of the latter sort until the late sickness — a pestilential distemper in 1692, supposed to have been introduced by soldiers returning from an expedition to the Leeward Islands, which swept away many of the people, including numbers of negroes — had reduced them to great want of hands. Of the other white servants, poor men's children whether driven thither by necessity or discontent, many, behaving themselves honestly and laboriously, had raised themselves, after their servitudes were over, to be masters of plantations.

The masters, merchants, and planters lived like little sovereigns on their plantations: they had their servants of the household and those of the field; their tables were spread every day with variety of nice dishes, and their attendants were more numerous than many of the nobility in England; their equipages were rich; their liveries fine, their coaches and horses the same; their chairs, chaises, and all the conveniences of their travelling magnificent. The most wealthy of them, besides their land equipages, had their pleasure boats to make the tour of the island in and sloops to convey their goods to and from the Bridge (Bridge Town).

Their dress and that of their ladies was fashionable and courtly, and having been generally bred in London, their behavior was genteel and polite; in which, says the author, they had the advantage of most of the country



gentlemen of England, who, living at a distance from London, frequent the world very little, and from conversing always with their dogs, horses, and rude peasants acquire an air suitable to their society. The gentlemen of Barbadoes were civil, generous, hospitable, and very sociable.

“In short,” says Oldmixon, “the inhabitants of Barbadoes live as plentifully and some of them as luxuriously as any in the world. They have everything that is requisite for pomp and luxury; they are absolute lords of all things — life and limb of their servants excepted — within their own territory, and some of them have no less than 700 or 800 negroes, who are themselves and their posterity their slaves forever.”<sup>1</sup>

James Anthony Froude, in his work on “The English in the West Indies,” gives a similar description of the society of Barbadoes, taken from an account of Père Labat, a French missionary who visited the island about the time of which we write. The contemporaneous descriptions of Labat of Barbadoes and Lawson of Carolina correspond in a remarkable manner. Lawson found no such brilliant jewellers and silversmith shops in Charles Town as Labat did in Bridge Town, for Barbadoes was much older and as yet much richer, but the society they describe is the same. The merchants of Carolina, says Lawson, are fair and frank traders. The gentlemen seated in the country are very courteous, live very nobly in their houses, and give very genteel entertainments to all strangers and others that come to visit them. Both seem equally struck with the well-disciplined militia, especially their horse. In Bridge Town a review was held for Labat, in which 500 gentlemen turned out, admirably mounted and armed.

Lawson says that the horsemen in Carolina are mostly

<sup>1</sup> *British Empire in Am.*, vol. II, 128.

gentlemen and well mounted and the best in America. Their officers, both infantry and cavalry, generally appear in scarlet mountings as rich as in most regiments belonging to the Crown, which, he observes, shows the richness and grandeur of the colony.<sup>1</sup>

The Barbadian settlers thus brought with them a colonial society already to a considerable degree formed, and with their slaves they brought the slave code as it existed in Barbadoes. Under this code the condition of the black slave was only worse than that of the white servants because their servitude was perpetual. Indeed, the negro slave had the great security that if he died his owner lost his pecuniary value; whereas by the death of a white indentured servant the loss was only that of two or three years' wages. The master was accordingly rendered more careful of his slaves than of hired servants.

The Proprietors, as we have seen, had offered inducements to those who would bring out white servants, and others had been sent by the government, condemned to servitude as punishment for crimes or political offences. Owing, however, to the large numbers of negro slaves imported into the colony, not many white servants were induced to come of their own accord, and fortunately fewer criminals were sent to South Carolina than to other colonies.

At the time of the settlement of Carolina negro slavery was a recognized institution in all the European colonies; it was assumed that it would exist also in Carolina. Four of the Proprietors of Carolina, — the Earl of Shaftesbury, Earl Craven, Sir George Carteret, and Sir Peter Colleton, — Ralph Marshall and John Portman, who came out with Sayle, were members of the Royal African Company

<sup>1</sup> *The English in the West Indies* (Froude), 27; *A New Voyage to Carolina* (Lawson), 3.

with James, then Duke of York, which was chartered and given the sole trade in slaves on the African coast.<sup>1</sup> We find it provided by the philosopher Locke in his *Constitutions* that "every freeman of Carolina shall have absolute power and authority over his negro slaves of what opinion or religion soever." The significance of this provision was not in recognition of slavery as an institution of the province — that was assumed; nor yet in the absolute power it proposed to give to the freeman over his slave, great as that was, but in the last words, wherein it was intended to provide against the effect of the possible conversion and baptism of the negroes. A doubt had arisen and prevailed extensively upon this point. The idea was that as the enslavement of negroes was chiefly justified on the ground that they were heathen, upon their becoming Christians they would be released from bondage. It is curious to observe the effect of this scruple, which appears to have been honestly entertained. Some Christian masters, rather than offend their consciences by holding fellow-Christians in slavery, withheld the Gospel from these people lest they might hear and believe and be converted, and become as one of themselves. We shall see hereafter how Church and State agreed in dispelling this idea.<sup>2</sup>

The first statutory provision relating to slaves in Carolina was an act in 1686 prohibiting trading with them, either white or black, servants or slaves. The facility with which goods and provisions could be stolen by servants and slaves having access at all times to their masters' stores was the cause of this provision. No one was allowed to buy or sell, bargain or contract, with any of

<sup>1</sup> *Calendar State Papers, Colonial* (Sainsbury), 1669-74, 934.

<sup>2</sup> See article entitled "Slavery in the Province of South Carolina, 1670-1770," by Edward McCrady. *Annual Report of the American Hist. Assn.*, 1895, 631-673.



them without their masters' privity and consent.<sup>1</sup> The next, an act of 1687, related to white servants coming from Europe or other parts of America. To prevent frauds between masters and servants arriving in the province without indentures or contracts, it provided that those coming from Europe under the age of ten years should serve until they arrived at the age of twenty-one years; under the age of fifteen years and above ten should serve seven years; above the age of fifteen years should serve five years. A less time of service was prescribed for those coming from Barbadoes or other parts of America.<sup>2</sup> In 1691 these acts were revised. Servants absenting themselves were required to serve additional time for every day of absence. On the other hand, it was provided that if any master, under the pretext of correction, unreasonably whipped or abused a servant, the Grand Council might set such servant free or make such order as they should deem just; so, too, the master was required to provide good and wholesome food for his servants under penalty.<sup>3</sup>

In the year 1688 two important enactments had been made in Barbadoes in regard to negro slaves. The first was an act of April 29, declaring negro slaves real estate and not chattels,—and providing that they should descend to the heir and widow of an intestate according to the manner and custom of lands of inheritance held in fee-simple.<sup>4</sup> The second was a revision of the slave code of the island of August 8th.<sup>5</sup> These acts formed the basis of the first code upon the subject in South Caro-

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 22.

<sup>2</sup> *Ibid.*, 30.

<sup>3</sup> *Ibid.*, 52.

<sup>4</sup> *The Laws of Barbadoes*, London, 1694 (Act No. 42), Library Hist. Soc., Penn.

<sup>5</sup> *Ibid.*, No. 82.

lina. In 1690, in Sothell's administration, an act was passed, the draft of which was evidently made upon these Barbadian enactments. Indeed, the South Carolina statutes follow and adopt not only the main feature of these laws, but the phraseology as well.<sup>1</sup>

The provision in regard to the devolution of negro property, *i.e.* that in cases of intestacies it should descend as real estate, and not as personal property, was adopted in a modified form. After providing that all slaves should have convenient clothes, and that no slave should be freed by becoming a Christian, the statute went on to enact that slaves should not be resorted to in the first instance for the payment of debt, but only when other goods and chattels of the debtor were not sufficient to satisfy the demand of the creditor; that then only so many as were necessary for the purpose should be sold; and that in the settlement of estates negroes and slaves should be accounted for as *freehold*. Negroes were nevertheless always returned as personal property in the inventories of intestates' estates, as the records of the Ordinary's office in Charleston abundantly show. This condition continued until 1740, when it was declared that negroes and Indian slaves should be reputed and adjudged in law to be chattels personal.<sup>2</sup>

The principal other provisions of this code were the restriction of the slave to the limits of his master's plantation or premises except when accompanying the master, or with his ticket of leave in writing upon each occasion of his going abroad; the severe punishment of slaves for the

<sup>1</sup> *Statutes of So. Ca.*, vol. VII, 343, 344.

<sup>2</sup> *Ibid.*, 347.

Under the provisions of the revised code of 1705 of Virginia, the slave was also declared to be real estate unless held by a merchant who was seeking to sell him, in which case he was decided to be personalty. Bruce's *Economic Hist. of Va.*, vol. II, 98.

striking of a white man, extending to branding, burning mutilation, and even death upon repeated offences; the arrest and commitment of runaways; the constant search of the houses of slaves for arms, which they were not allowed to have, and for stolen goods; the mode of trial of slaves for crimes and misdemeanors, *i.e.* by a court of two justices and three freeholders instead of by jury, and the punishments prescribed, which were not, in general, greater than those inflicted upon white men for similar offences.

The worst feature of the code was the inadequate protection afforded by the terms of the statute to the life and limb of the slave. The provision in regard to this, was that if any slave, by punishment from the owner for running away or other offence, should suffer in life and limb, no person should be liable to the law for the same; but if any one out of wilfulness, wantonness, or bloody-mindedness should kill a slave, upon conviction he should suffer three months' imprisonment and pay the sum of £50 to the owner; a servant killing a slave was to be whipped nine and thirty lashes, and to serve the master of the slave four years; a person was not to be punished for killing a slave stealing in his house, if the slave refused to submit.<sup>1</sup> These provisions practically placed the life or death of the slave in the hands of the master. But this terrible power was in a great measure neutralized and controlled by the master's interest. To kill or injure his slave, whether for doing so the master was punished or exculpated by the law, was to impose upon himself a pecuniary fine to the extent of the slave's value. The effective motive of interest came into the protection of the negro's life. It has been pointed out that in Barbadoes under this law, while the blacks four times outnumbered the whites, homicide among the whites, though

<sup>1</sup> *Statutes of So. Ca.*, vol. VII, 343-347.



of rare occurrence and punished in the same exemplary manner as at the Old Bailey, was of more frequent occurrence than the murder of a slave by a freeman.<sup>1</sup>

Such were the main features of the slave code brought over by the Barbadians and adopted by the Carolinians. However harsh they may appear to the reader of the present day, it must be remembered that the penal codes under which white men then lived in England and elsewhere were scarcely less so.<sup>2</sup> Granting the subordination of slavery, the prohibition of slaves' going beyond the limits of their masters' plantations was no more than that applied to soldiers and sailors, whose liberties do not extend beyond the camp, barrack, or ship. So, too, in regard to the provision as to a slave striking a white man. "Is the soldier who fights the battle of his country and lifts his hand against his commanding officer," asks the historian of Barbadoes, "more criminal or punished with less severity than the audacious slave who strikes his master? Is the gallant sailor who upholds the nation's glory and protects it by his valor and prowess subject to a milder punishment, if in a moment of unguarded resentment he should strike the officer whose orders he is bound to obey? No; an ignominious death awaits the rash offender; his former services are forgotten and he is consigned to a premature grave for his temerity, while the slave lives to repeat his crime and exult in his audacity."<sup>3</sup>

The scheme of the Court of Justices and Freeholders was taken also from the Barbadian act. And in regard to that statute it was observed that the form of trial it provided was in all respects competent to the administration of justice, "and candid men," continues the author

<sup>1</sup> *Hist. of Barbadoes* (Poyer), 134, 135.

<sup>2</sup> Blackstone's *Com.*, vol. IV (Sharswood ed.), 377.

<sup>3</sup> *The History of Barbadoes* (Poyer), 138.

just quoted, "may probably think that a tribunal consisting of two magistrates and three jurymen may be as capable of deciding justly as the military and naval courts martial which are allowed to decide upon the lives of freemen."<sup>1</sup> In this connection it may be remarked in passing that in the whole system of government brought over from Barbadoes, with its interwoven military organization and slavery, there is a strong flavor and element of martial law — thus the chief executive officer of the court was not styled High Sheriff as Locke's Constitutions proposed, but Provost Marshal.

<sup>1</sup> *The History of Barbadoes* (Poyer), 140.

## CHAPTER XVI

1700-1703

DURING the first thirty years of the province, the politics of the colony had turned upon the recognition or repudiation of the Fundamental Constitutions of Locke; the terms and regulations of the grants of land; the collection of quit-rents; and on the one hand the determined struggle of the people in Carolina to control their own affairs, and on the other the languid efforts of the distant Proprietors, exerted in a desultory and careless manner, to maintain their authority. How impotent the Proprietors were, Sothell had shown when he assumed the government without his co-proprietors' consent and held it in defiance of their wishes until by his conduct he had disgusted the people whose cause he had assumed to espouse.

The original colonists had passed away with the old century and new men appeared to control the political affairs of the province.

The Fundamental Constitutions were soon to be practically abandoned, save as a harmless amusement of the Proprietors in bestowing some few more provincial titles. But the colonists, more restless than ever under the inefficient rule of the Proprietors, were encouraged by the government at home to oppose it. With new men, new questions were to arise and new policies to be pursued; to end in the overthrow of the Proprietary Government and the surrender of the charter. These questions and policies were all



involved in those of the mother country, and to understand the coming events in Carolina, we must take a brief glance at the affairs in England out of which they grew.

For Europe in general the Peace of Ryswick of 1697 was little more than a truce, — a truce to end in the war of the Spanish succession. The accession of the Duke of Anjou, the grandson of Louis XIV, to the Crown of Spain might not, of itself, have aroused popular feeling in England to such an extent as to warrant William in declaring war, had not Louis XIV taken the occasion to expel the Dutch garrisons from the fortress of the Netherlands, which they had occupied since that treaty, and to replace them in February, 1701, by French troops. The people of England at this time were utterly averse to war. But bitter as the strife was between Whig and Tory, there were two things upon which Whig and Tory were agreed: neither would suffer France to occupy the Spanish Netherlands; neither would endure a French attack on the Protestant succession which the Revolution of 1688 had established. The seizure of the Dutch barrier, and the disclosure of a new Jacobite plot, brought the Parliament of 1701, a Parliament mainly of Tories, at once to William's support in his demand for a withdrawal of the French. While England was still clinging desperately to the hope of peace, Louis, who had acknowledged William as King and pledged himself to oppose all attacks on his throne, in September, 1701, entered the bedchamber at St. Germain's where James the Second was breathing his last, and promised to acknowledge his son, at his death, as King of England, Scotland, and Ireland. This act of the French King put an end to any question between Whig and Tory. Every Englishman supported William in his open resentment of the insult. The Grand Alliance was formed September, 1701, against France and Spain; and the new

Parliament, which met in 1702, though still Tory, was now as much for war as the Whigs — an army was immediately raised, and Marlborough was sent with it to Flanders. William died on the 8th of March, 1702, and upon the accession of Anne war was at once begun.

The victory of Blenheim, on the 13th of August, 1704, aided to bring about a great change in the political aspect of affairs. The Tories, who were now in power, were pressing hard the defeated Whigs; the Whigs, however, still controlled the House of Lords. But the Tories, if willing to support the war abroad, were resolved to use the accession of a Stuart, or Queen Anne, to secure their own power at home. They resolved, therefore, to make a fresh attempt to create a permanent Tory majority in the Commons by excluding nonconformists from the municipal corporations which returned the bulk of the borough members, whose political tendencies were, for the most part, Whig. The test which prevailed, of receiving the sacrament according to the ritual of the Church of England, effective as it was against Roman Catholics, was not so against Protestant dissenters, who evaded it by partaking of the communion in a church once in a year, and subsequently attending their own chapels; in doing which, they were protected by the Toleration Act. This was called "occasional conformity"; and it was against this practice that the Tories introduced a test which, by excluding the nonconformists, would have given them the command of the boroughs. But it was rejected by the Whig House of Lords as often as it was sent up to them.<sup>1</sup>

These great affairs in Europe were all reflected in America, and the course of events in Carolina closely followed those in England.

Among the leaders who now appeared were some of

<sup>1</sup> Green's *Hist. of the English People*, vol. IV, 70-89.

great ability. Moore and Daniel, though not among the first settlers, had each been in the province for some years and had already taken an active part in its affairs. The more recent comers who were to be prominent in the stirring events to follow were Sir Nathaniel Johnson, Nicholas Trott, William Rhett, Edmund Bellinger, and John Barnwell.

With James Moore we have already had some casual acquaintance as one of the leaders of the opposition to Colleton, and whom, with Robert Daniel, the Proprietors excluded from their pardon, and more lately as an adventurous explorer of the province, who, though again in the Council of the Proprietors, was ready, according to Randolph, to betray their interest. But Randolph, it must be remembered, was reckless in his charges against the best of the colonists, not only in Carolina, but in every other province. This James Moore was supposed to be the son of Roger Moore, one of the leaders of the rebellion in Ireland in 1641, and an inheritor of the rebellious blood of his sire. He had married a daughter of Sir John Yeamans, by whom he had a large family.<sup>1</sup> He was one of "the Goose Creek men" against whom Ludwell had been warned.

Robert Daniel had come from Barbadoes in 1679. He had first appeared in the struggle against Colleton in 1680; and though, with Moore, he had been excluded from the Proprietors' pardon, had so recovered his position with their Lordships that we find him in 1698 in London in conference with them upon a new set of Constitutions for the regulation of the government, and coming back bringing not only these new Constitutions, but a patent appointing him Landgrave.

Sir Nathaniel Johnson was altogether the person of

<sup>1</sup> Wheeler's *Reminiscences of No. Ca.*, 49.



highest position who had yet come into the province. He was of Keeblesworth, in the bishopric of Durham, had been a distinguished soldier and a member of Parliament. He was a faithful follower and supporter of the Stuarts, and at the time of the abdication of James II was Governor of the Leeward Islands, residing at Nevis, then the most flourishing of that group of islands. Refusing to take the oaths to William and Mary, he had been removed from his position, and had come to Carolina.<sup>1</sup> Here he had devoted himself to the development of industries in the province, especially, as we have seen, to the making of silk, and had also greatly encouraged the planters in the cultivation of rice and other agricultural experiments. These enterprises and his military character had given him great popularity. For some reason, it has appeared, he was viewed with jealousy by the Proprietors upon his first coming into the province.

Nicholas Trott<sup>2</sup> was a lawyer of London of great learning and unbounded ambition, and withal of little principle. He had been sent by the Proprietors of Carolina to Providence (now Nassau), one of the Bahama Islands within their grant, to supplant Cadwallader Jones, the Governor there, against whom there were charges of misgovernment and high treason. Randolph accused Trott of harboring and encouraging pirates, as Jones, he charged, had done before him. But this was Randolph's common charge against all the Governors of the colonies. Trott was, however, also complained of to King William because of his arbitrary conduct, but he remained Gov-

<sup>1</sup> *British Empire in Am.*, vol. II, 198, 244.

<sup>2</sup> "The Trotts of Beccles were worshipful men in the time of Charles the first. Mathew Trott was register of the Court of the Commissary of Suffolk and a Nicholas Trott had the living of Ringsfield in 1663." — *Introductory Memoir to the Diary and Autobiography of Edmund Bohun, Esq.*, xxvi.

ernor of Providence until 1697, when he was recalled,<sup>1</sup> and upon his return to England was appointed Attorney General of Carolina, to which place he came in 1698.

William Rhett is said to have been born in London in 1666, and to have come to Carolina in 1694 with his wife and one child.<sup>2</sup> He was a seaman, for we find on record a power of attorney, dated September 7, 1699, from John and Nicholas Trott of London to Governor Blake and others in Carolina, to collect from Captain William Rhett "all such sums of money goods wares merchandise negro slaves, gold, elephants teeth wax effects and things whatsoever" which the said Captain William Rhett had in his hands "on account of their being part owners of the ship *Providence* burthen 150 tons, whereof the said William Rhett is commander."<sup>3</sup> Rhett was a man of violent temper, but of great courage and ability, and was to render the colony the most brilliant services.

Daniel, Johnson, Trott, and Rhett were all strong and high churchmen. Edmund Bellinger first appears as deputy of Thomas Amy in 1697, then as Surveyor General and Landgrave in 1698; having with Robert Daniel been in London the latter year in consultation with the Proprietors upon the last draft of the Constitutions.<sup>4</sup> John Barnwell was a gentleman of Dublin, of influential connections, who had come to Carolina led by a spirit of adventure, and soon became the Deputy Secretary of the colony.

Possessed of great abilities and clothed with extensive powers, Mr. Trott came recommended especially to Governor Blake, and immediately attained an influential posi-

<sup>1</sup> *British Empire in Am.*, vol. I, 476, vol. II, 428-430; *Colonial Records of No. Ca.*, vol. I, 466.

<sup>2</sup> Ramsay's *Hist. of So. Ca.*, vol. II, 507.

<sup>3</sup> Probate office, Charleston, *Book Miscellaneous Records*, 1694-1704.

<sup>4</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 144, 145.

tion. Notwithstanding his official character as Attorney General under the Proprietors, he appears to have been elected to the Assembly as representing the "country party" as it was termed, that is, the party of dissenters who were principally located in Colleton County. Here he at once exhibited the antagonism which marked his subsequent career. The Governor and Council on the one hand, and the Assembly or House of Commons on the other, had now separated and sat in distinct houses, communicating with each other by messengers and committees of conference. In a conference of committees from the Council and Assembly February 19, 1700, on a bill regulating the Court of Admiralty, Governor Blake, who presided, was insisting upon a certain point when Mr. Trott interrupted him with the remark: "With submission to your honor, you are too fast; we are not come to that point yet," and without disclaiming an intention to offend, declared in reply to such a charge his right to freedom of speech, since he recognized Mr. Blake, in this instance, only as one of a committee, and not in his character of a Proprietor and Governor of the province. The conference was dissolved, and Blake refused to meet the committee again if Trott should be present. The matter was referred to the Assembly, and they resolved "that any manager appointed by this house have freedom of speech as it is their undoubted right."<sup>1</sup> In this first controversy, however rude Trott may have been, and negligent of the courtesy due the Governor, it cannot be questioned that the Assembly was right in standing up to its representative on a committee of conference. If the Governor had condescended to act as one of such a committee on the part of the Council, he should not have expected to carry there the overawing dignity of his official

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 192.



character. He was there, as the Assembly correctly held, merely as one of his Council, with whom their representative had the right freely to discuss the matter in hand unembarrassed by the official character of the Governor.

Another question now also arose between the Governor and his Council on the one side and the Assembly on the other. Upon the death of Mr. Ely, the Receiver General, the Governor and Council claimed the privilege of nominating his successor until the pleasure of the Proprietors was known. The Assembly, on the other hand, insisted that it belonged to them. This occasioned several messages between the two houses, and much altercation ensued. The Upper House appointed the man of their choice; the Lower House resolved that the person so appointed was no public receiver, and that whoever should presume to pay money to him as such, should be deemed an infringer of the Assembly and an enemy of the country. Trott now made the point that the Governor and Council could not be called an Upper House, though they thus styled themselves, as they differed in the most essential circumstances from the House of Lords in England, and persuaded the Assembly to call them "the Proprietors' deputies." This question, as to the character of the Governor's Councils in the enactment of laws, thus started, continued not only through the Proprietary, but through the Royal Government as well, and was the subject of a bitter controversy between William Henry Drayton and Sir Egerton Leigh, when the Revolution of 1776 put an end to the discussion. But in the end, as at the beginning, it was one more of the name or title of the body than one of substance. The Governor and Council, from an early period to the end of the Royal Government, sat as a separate body, without the consent of which no law could be passed. Trott himself had first recognized it as

such when, as a member of a committee of conference, he had met a like committee of the Council. His conduct to Governor Blake was justifiable, if at all, only on that very ground—and on no other.

But Trott had already given other cause of offence. He was not only Attorney General, but was naval officer as well, and had incurred Governor Blake's displeasure because of his alleged partiality as the prosecuting officer of the port, and upon this charge Blake suspended him from exercising the function of either office.<sup>1</sup> Randolph, the King's Collector of Customs, however, who had not long before reported the Bahama Islands as under Trott's administration a common retreat for pirates, now espouses his cause and writes to the Lords Commissioners of Trade charging a conspiracy between Governor Blake, his brother-in-law Morton, the Judge of Admiralty, and Logan and Bellinger, in seizing and condemning vessels, and buying them in upon sale at half their value; and declares that Nicholas Trott was turned out of his place—though he had the commission of his Majesty's customs as well as that of the Proprietors—because he was diligent and faithful to his trust, and to make room for a creature of the Governor.<sup>2</sup>

At this juncture at the close of the year 1700,<sup>3</sup> Governor Blake died, and Trott had no difficulty in persuading the next Assembly to resolve that there were no sufficient reasons for his suspension and to request his reinstatement, which was granted, though with some reluctance by his friend, the successor of Blake; this hesitation was occasioned, it was charged, by Trott's opposition to too flagrant

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 192.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 215, 216; *Colonial Records of No. Ca.*, vol. I, 545.

<sup>3</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 144.

a scheme of the new Governor to turn to his private advantage the emoluments of the Indian trade.<sup>1</sup>

Upon the death of Blake, Joseph Morton, as the eldest Landgrave present, was entitled to the administration under the Fundamental Constitutions, and whether these Constitutions were or were not binding, a majority of the Council then present elected Morton until the pleasure of the Proprietors could be known. But James Moore, who was one of the body, objected to Morton's election upon the ground that he was ineligible, as he held an office under the King, *i.e.* Judge of Admiralty. To this objection it was answered by Mr. Morton's friends, "That it did not appear by the charter, the Proprietaries can empower any one to try persons for acts committed out of their dominions which is necessary for a judge." And that as it was necessary that some one in the colony should possess the power, it should not disqualify Mr. Morton from being Governor as well while he was Judge. The objection, however, prevailed. Morton was set aside, and Moore was chosen. Morton complained to the Proprietors, but their Lordships did not interfere in his behalf.<sup>2</sup> Indeed, they had themselves, the year before, expressed surprise that Morton, holding the commission as Judge of Admiralty, should have taken another, though from the King;<sup>3</sup> and were probably not displeased that he had suffered for it without their own action. Morton does not appear ever to have been a favorite with the Proprietors. They had made him a Landgrave and Governor in 1682 for bringing out a number of immigrants, but they had been very curt to him in their communications, and had soon sent out a stranger to

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 192.

<sup>2</sup> Oldmixon, *British Empire in Am.*, vol. I, 474; Carroll's *Coll.*, vol. II, 418; *Hist. Sketches of So. Ca.* (Rivers), 194.

<sup>3</sup> *Public Records of So. Ca.*, vol. IV, 100.



relieve him. He had before been chosen by the Council in an emergency, upon the retirement of Governor West in 1685, but had again been promptly relieved by the Proprietors, who sent out Colleton instead in 1686. Had the Proprietors known that Moore had been endeavoring to betray their interests to the King through Randolph, they may perhaps have overlooked Morton's taking a commission from his Majesty, and have allowed him to serve for a while as Governor for a third time.

Moore is said at this time to have been in great debt and pecuniary want, and determined if possible to improve his desperate circumstances during his lease of power, which he apprehended would be of but short duration. He designed, therefore, to make a considerable profit out of the Indian trade while he had the opportunity, and for the purpose had a bill brought into the Assembly for regulating that business, which, had it passed, would have given him a monopoly. But Trott, by his astuteness, saw at once through the scheme and, for purposes of his own, defeated it. Upon this, Moore, finding the Assembly not amenable to his designs, dissolved it.

A new Assembly was called and every exertion was made to control its composition. The election took place in November, 1701, and the dissenters of Colleton County charged that unqualified aliens, *i.e.* French Protestants, strangers, paupers, servants, and even free negroes, were allowed to vote. As soon as the Assembly met, petitions were presented by the defeated candidates praying to be heard against the validity of the Sheriff's returns. The Assembly, most of whom were incorruptible, and apparently not under Moore's control, promptly resolved to enter into an immediate investigation. To prevent this they were prorogued from time to time. Being summoned in April, 1702, the busiest time with planters, they

met and adjourned till the 5th of May. This Governor Moore angrily imputed to a greater regard to private than to the public welfare, and prorogued them till August.<sup>1</sup>

In the intervals reports were circulated that Colonel Daniel had instigated Moore to proclaim martial law if the Assembly should continue to exhibit a refractory spirit, and when the Assembly met recrimination immediately began. If the public welfare had required their counsels, why had the Governor through pique prorogued them till August? Was it that he designed to menace them with coercion? "Oh, how is the sacred law profaned," it was said, "when joined with martial! Have you forgotten your honor's own noble endeavor to vindicate our liberties when Colleton set up his arbitrary rule?"<sup>2</sup>

Before the prorogation of the Assembly, Mr. Trott and Mr. Higginton had been appointed a committee to supervise the last set of Constitutions sent out by the Proprietors with Colonel Daniel. On the 10th of August, 1702, these gentlemen made this incoherent report:<sup>3</sup>—

"That the constitutions of which we are to consider make and set up an estate different and distinguished from the Lords Proprietors, and the Common's House without whose consent no law shall or may be enacted, which is called in the said constitutions the upper house, consisting of the Landgraves and Casiques who being created by their Lordships' second letters patents are also a middle state between the Lords and the Commons; which constitution we cannot find that it anyways contradicts the said Charter.

"We find that the 22d article in the said Constitutions manifestly interferes with our Jury acts now in force; That all other articles in the constitutions are as neare and agreeable as may be to the said charter or at least no wayes repugnant to it."

In this inconsistent and contradictory report, Trott

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 196.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Statutes of So. Ca.*, vol. I, 41; *MSS. Journal*.

points out that the Constitutions made and set up an estate consisting of Landgraves and Caciques, called an Upper House, without the consent of the Commons House, without which no law could be enacted under the charter; and yet reports that the committee cannot find that the Constitutions anyways contradict that instrument. That one of the articles of the Constitutions interfere with the jury acts; but all other articles are as near and agreeable to the charter as may be, or at least not repugnant to it. What is the meaning of this? The implication is that if the Constitutions are inconsistent with the jury act, the Constitutions must give way; and yet, though contradicting the charter in setting up a third estate without the consent of the Commons, they are not repugnant to it.

This was his formal report; but the dissenters of Colleton, in an address, complained to the Proprietors that when the House came to consider the Constitutions, "they were opposed by Mr. Trott & Mr. Howes and others, the said Governor's creatures & several reflectory words used by the said *Trott & Howes* concerning them, exposing the constitutions as ridiculous and void in themselves; thereby endeavoring (notwithstanding Your Lordship's care of us) to keep the people in an unsettled condition, that from time to time they might the more easily be imposed on by them."<sup>1</sup>

It is as difficult to suppress a smile upon reading the address of the dissenters of Colleton on the one hand, as upon reading the sophistical report of Trott on the other. Trott's insincerity was equalled by that of the address. Could the Proprietors really believe that the dissenters were now in earnest in desiring the imposition of the Fundamental Constitutions, which they had so persistently

<sup>1</sup> "Address of Members of Colleton Co.," *Hist. Sketches of So. Ca.* (Rivers), Appendix, 457.



resisted, and which Constitutions, while professing religious freedom, prescribed that the General Assembly should take care of the building of churches and the public maintenance of divines of the Church of England, "which being the only true and orthodox, and the national religion of all the King's dominion, is also of Carolina," etc.

The proceedings of the House upon the reports are scarcely less contradictory than the report itself. The day after it had been presented, the House entered into a debate upon it, and ordered the Constitutions themselves to be read. Then the question was raised as to the effect of the deaths of the Proprietors who had signed them. "The question is put whether the house is of opinion that the constitutions now before us are valid, being enacted by us since severall of the proprietors are dead who signed the same. Carried in the affirmative."<sup>1</sup> It is not easy to understand this entry, as none of the Constitutions had ever been enacted by the Assembly; and but one of the Proprietors who signed the last set brought out by Colonel Daniel had since died, *i.e.* the Earl of Bath. It was then "ordered that the said constitutions be read again, and debated paragraph by paragraph to morrow morning." They were accordingly so read and debated the next day, September 1, whereupon the House refused to order them to a second reading.<sup>2</sup>

When Sir Nathaniel Johnson was made Governor the year after, he was instructed to obtain, if he could, the assent of the Assembly to such parts of the Constitutions as he should deem advisable. But nothing more was done in the matter, and this was practically the last of the famous Fundamental Laws proposed by Locke, except the occasional appointment of Landgraves or Caciques.

In the midst of these discussions the doors of the As-

<sup>1</sup> *Statutes of So. Ca.*, vol. I, 42.

<sup>2</sup> *Ibid.*

sembly were suddenly closed, and when they were opened, an act was passed for raising the sum of £2000 for carrying on an expedition against St. Augustine, "and for appointing the number of men and ships to be made use of, and the manner and method of going against the said place."<sup>1</sup> Our only account of what took place in this secret session is that given in a paper from which quotation has already been made, purporting to be a "Representation and Address" of several members returned for Colleton County and other inhabitants of the province, "and signed by 150 of the principal inhabitants." The paper is an address to the Lords Proprietors, complaining of the Governor generally, and especially of their treatment in a riot which ensued upon the withdrawal of the Colleton members from the Assembly. It is loosely and crudely drawn, is inaccurate in its statements, and reckless in its imputations of motives. Oldmixon, the author of *The British Empire in America*, however, unhesitatingly adopts its account, and warmly espouses its cause; and in this he has been followed, more or less, by other historians.<sup>2</sup> But, though claiming to be a churchman, Oldmixon was a member of the Blake family, as a tutor, and was a thorough partisan of the interest of which that family was the head.

The address charges that the expedition was set on foot by the Governor and his adherents for no other purpose than catching and making slaves of Indians for private advantage; that for this purpose the Governor had before granted commissions to Anthony Dodsworth, Robert Mackoone, and others to kill, destroy, and capture as many Indians as they possibly could, the profit and produce of

<sup>1</sup> *Statutes*, vol. II, 189.

<sup>2</sup> *British Empire in Am.*, vol. I, 476; Hewatt's *Hist. of So. Ca.*, vol. I, 152; *Hist. Sketches of So. Ca. (Rivers)*, 199.

which capture of Indians were to be turned to the Governor's private account. That if any one in the Assembly undertook to speak against the expedition, and to show how unprepared the colonists were at that time for such an attempt, he was reviled and affronted as an enemy and traitor to his country.<sup>1</sup>

It is not at all improbable that the debate in the Assembly was conducted with warmth, and caused great excitement. It may well be imagined that strong and bitter words were used against those who were opposing the expedition, especially if in their opposition they had been bold enough to impute the motives to the Governor, with which they afterwards charged him in their address to the Proprietors. We remember how bitterly all the colonists had resented the suppression by Colleton of the expedition in 1686, as contrary to the honor of the English nation. They had been prevented and forbidden, at that time, from an attempt upon the Spanish post, because it was said England and Spain were nominally at peace. But that reason did not now exist. "Queen Anne's War" had actually begun, and that alone presented an opportunity of striking a blow at that pestilential spot held by mongrel Spaniards, as a constant threat to the provinces.

But the cause of war upon St. Augustine at this time was much greater and more immediate than the mere fact of hostilities between England and Spain; and that cause was not alluded to in the address of the Colleton party. In the report of a committee of the Commons upon Oglethorpe's expedition, made forty years after the events we are now considering, a sketch is given of two previous invasions of Carolina from St. Augustine, and in this sketch we find the occasion of the present movement against that place. From this report it appears that in

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 456.



1702, before Queen Anne's declaration of war was known in the province, the Spaniards had formed the design again to fall upon the Carolina settlement by land at the head of 900 Apalatchee Indians. The Creek Indians, in friendship with the Carolinians, coming to a knowledge of this intended invasion, informed the traders, but not before the Spaniards' expedition was on its march. The Carolina traders, instead of retreating, however, roused the Creeks to resistance and, collecting 500 men, headed them, and went out to meet the invaders. The hostile parties met one evening on the side of Flint River, a branch of the Chattahoochee, in Georgia. In the morning just before daybreak, at an hour when Indians were accustomed to make their attacks, the Creeks, stirring up their fires, drew back at a little distance, leaving their blankets by the fires in the order in which they had slept. As was expected, the Spaniards and Apalatcheans, coming to the attack, ran in and fired upon the blankets, whereupon the Creeks, rushing forth from their retreat, fell on them, killed, and took the greater part, entirely routing them.<sup>1</sup> It was upon this provocation and renewed invasion by the Spaniards, that it was deemed best to take the offensive and to endeavor, if possible, to wipe out this constant source of menace and danger to the province.

Rivers suggests that it is reasonable to suppose that there was some connection between this affair and the charge against the Governor of granting to irresponsible persons the power to set upon Indians who were not in open hostility against the colonists.<sup>2</sup>

Whatever opposition to the expedition was made in the Assembly was soon overcome, and £2000 were voted to

<sup>1</sup> Carroll's *Coll.*, vol. II, 348.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 199, 200.

carry it out. It was agreed to raise 600 provincial militia, an equal number of Indians, and ten vessels for the expedition. Port Royal was the place of rendezvous, and thence in September, 1702, the Governor at the head of his little army embarked.

In the plan of operation it had been agreed that Colonel Daniel, with a detached party, should go by the inland passage and make a descent upon the town from the land, while the Governor should proceed by sea and block up the harbor. The precautions to keep the matter secret had been unavailing. The inhabitants of St. Augustine heard of it and sent at once to Havana for reinforcements. Retreating to their castle with their most valuable effects, and provisions for four months, they abandoned the town to the Carolinians. Colonel Daniel, proceeding by land to the St. John's River, going down that river in small boats and landing on the east bank in the rear of St. Augustine, took the villages of St. John's and St. Mary's, and arrived first at the point of attack. He had pillaged the town before the fleet arrived. The Governor now entered the harbor, landed his forces, made the church his quarters, and laid siege to the castle, which was surrounded by a deep moat; but, unfortunately, he was unprovided with suitable artillery for a siege. He held the town for a month and dispatched a sloop to Jamaica for mortars and bombs; but the commander of the vessel, either from fear or treachery, instead of going thither, came to Carolina. Remaining here for some time until shamed by the offer of others to go instead, he reluctantly proceeded again on his mission. The Governor all the while lay before the castle awaiting the return of the sloop with the guns; hearing nothing of it, Colonel Daniel, who was the life of the expedition, set sail himself for Jamaica.

Having with great expedition procured a supply of bombs, he sailed again for St. Augustine; but in the meantime, during his absence, two ships had appeared in the offing, which Governor Moore took to be men-of-war, and incontinently raised the siege, abandoned his ships with all the stores, ammunition, and provisions to the enemy, while he retreated to Carolina by land. The two men-of-war that appeared to the Governor so formidable proved to be two small frigates, one of twenty-two and the other of sixteen guns. Colonel Daniel, thus abandoned on his return from Jamaica, with difficulty escaped capture. He was chased, but got away. The Carolinians lost but two men; but the expedition entailed a heavy expense upon the colony. It incurred a debt of £6000,<sup>1</sup> probably equal to \$120,000 in present currency.<sup>2</sup>

The Assembly had been under prorogation during the Governor's absence; and when he returned it met, January, 1703. The courage and conduct of Colonel Daniel were highly praised, but the Governor was thanked reluctantly, and not without dissent, especially from Mr. Ash.

Though greatly disappointed at the result of the expedition, the invasion of Florida was not abandoned. A majority of the Assembly began at once to enter upon a more extensive plan for the reduction not only of St. Augustine, but of Pensacola and other Spanish strongholds as well. A brigantine was offered to Colonel Daniel to cruise on the coast of Florida. The Assembly also offered to supply with provisions a frigate if one should be sent from England to cruise on their coast. Colonel Daniel

<sup>1</sup> *British Empire in Am.*, vol. I, 476-478; Carroll's *Coll.*, vol. II, 422-424; Hewatt's *Hist. of So. Ca.*, vol. I, 152-155; *Hist. Sketches of So. Ca.* (Rivers), 199-201, Appendix, 456.

<sup>2</sup> This is estimating the value of the pound sterling as before; but this value was fluctuating, and the value of money gradually lessening.



having declined the command of the brigantine, it was offered to Captain William Rhett. But before another invasion was undertaken, it was considered best to pay for the last, against which many citizens had just claims. After considerable delay, caused by the investigation of the committees, two bills were introduced, one laying an imposition on skins, furs, liquors, and other goods and merchandise imported into and exported out of the province, for raising a fund towards defraying the general charges and expenses of the province and paying the debts due for the expedition against St. Augustine, and the other for raising £4000 in addition to the £2000 which it had at first been estimated would cover the expenses of the expedition. This sum was to be raised by a direct tax upon real and personal estates, and bills of credit were to be issued. The first of these measures, which was adopted on the 6th of May, 1703, is remarkable for a provision imposing a duty of twenty shillings a head on every negro slave (children under eight years old excepted) imported from the West Indies, or any other place but Africa, and sold in the province; and ten shillings per head on all such imported from Africa.<sup>1</sup> This was the first tax imposed upon the importation of negroes. The bill to raise the additional sum of £4000 created great astonishment and gave opportunity to the disaffected for a renewal of their opposition. To fill up the measure of their discontent, a bill twice passed by the House for regulating elections being sent to the Governor and Council for concurrence was summarily rejected, without, as usual, inviting a conference. Upon this, several — Oldmixon says fifteen out of thirty members who constituted the House — entered their protest under the instructions of those who sent them, they said, and left the House. But this they appear to

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 201.

have done more by way of threat than with an intention of permanent withdrawal; for the very next day, without any invitation to return, they all came back and offered to resume their seats if the rest of the Assembly would join them in the assertion of their rights. The remaining members of the Assembly, however, had taken them at their word, and instead of welcoming them back, the protesting members complained that they were abused, reviled, and treated with the most scandalous reflections, very unbecoming, they observe, of an Assembly. The House, however, could not make a quorum without them, and so were obliged to adjourn.

The Colleton members had, by their own showing, so far behaved in a weak, undignified, and unmanly manner. They had begun by making the most injurious charges against the honesty of the Governor and Council, imputing the most scandalous motives, holding back when the welfare and safety of the province demanded the most earnest support of the expedition against St. Augustine, resisting the enfranchisement of the French while making new demands for their own privileges; then because they could not have their own way, they had withdrawn from the house, and immediately changing their minds had come back, begging to be received again. It is almost pitiful to read their whining complaint to the Lords Proprietors. They wrote:—

“And we further represent to your Lordships that a day or two after such abuse was given to them in the house several of the said members viz: the said *John Ash* — *Landgrave Thomas Smith*<sup>1</sup> and others

<sup>1</sup> Thomas Smith, the second son of Thomas Smith, the Landgrave, who died in 1692. This Thomas Smith, Mrs. Poyas says, was born in England in 1670, and was brought over when a few months old. He was called the “little Englishman.” *The Olden Time of Carolina*, 18. But this, we have been informed, is a mistake. He was born in Madagascar, where his father lived before he came to South Carolina.

were assaulted & set upon in the open street without any provocation or affront by them given or offered. The said *Thomas Smith* was set upon by Lieut Col: *George Dearsby*, who with his drawn sword and the point held at the said *Smiths* belly swore he would kill him, and if he had not been prevented would have done the said *Smith* some considerable mischief to the endangering of his life. The said *John Ash* walking along the Street was assaulted by a rude drunken ungovernable rabble headed encouraged & abbetted by the said *Dearsby Thomas Dalton Nicholas Nary* and other persons Inhabitants who set upon the said *Ash* and used him villanously & barbarously; and that evening when he the said *Ash* was retired into a friends chamber for security the same armed multitude came to the House where the said *Ash* was & demanded him down assuring him at the same time that they would do him no hurt, but only wanted to discourse with him; upon which assurance he came down to them who notwithstanding being encouraged and assisted by Captain *Rhett* & others drew him on board his the said *Rhetts* ship revilling him & threatening him as they dragged him along; and having gotten him on board the said *Rhetts* ship they sometimes told him they would carry him to *Jamaica* at other times they threatened to hang him or leave him on some remote Island."

They complained that the Governor was cognizant of the riot, treated many persons engaged in it to drink, and gave them great encouragement, telling them "that the protesting members would bring the people on their heads for neglecting to pay the country's debts; which if it should happen he knew not who could blame them," etc.; that while the riot continued, which it did for four or five days, Landgrave Edmund Bellinger, who was a Justice of the Peace, was the only official who attempted to do his duty; and that for so doing Captain *Rhett* had beat him over the head with his cane; that during the riot a woman, the wife of a butcher, was thrown down, miscarried and brought forth a dead child; that when *Ash*, *Smith*, *Byres*, and *Boone* complained to the Governor, they received no other satisfaction than that "it was a business for a Justice of the Peace."<sup>1</sup>

<sup>1</sup> *Hist. Sketches of So. Ca. (Rivers)*, Appendix, 459.



And so undoubtedly it was. There was, no doubt, a riot caused by the indignation of the people against the protesting members, who, to carry an election law they desired for the exclusion of the French, to prevent the payment of the claims arising from the expedition to St. Augustine, and to prevent the sending another expedition to destroy that stronghold of the inveterate enemy of the community, had broken the quorum of the House. For their own political ends, they had thwarted the purposes of the people in a matter vitally affecting their safety. And yet in the terrible riot that occurred, nobody had been seriously hurt, unless it was the woman who had been accidentally thrown down in opening a door.

To sum up the casualties, Landgrave Smith had had a sword pointed at him, Landgrave Bellinger had received a whack across his head, and Thomas Ash had been tussled into a boat and frightened into believing that he was to be sent to Jamaica.

There was no court held in Charles Town after the riot, until Moore was superseded and transferred to his new office, that of Attorney General; and it was scarcely to be expected that under the circumstances he would have been vigorous in the prosecution of the rioters. Bellinger did, nevertheless, lay a record of the events before the grand jury, but no presentment was made. Neither the new Governor, the Council, nor the courts took any steps in the matter. Nor did the aggrieved party meet with support or sympathy when they sent Mr. Ash, as their agent, to the Proprietors in England with the memorial from which the above-mentioned events have been mostly taken.

## CHAPTER XVII

1701-1706

JOHN, Earl of Bath, the fourth Palatine, died August 21, 1701. But so negligent were the Proprietors of the affairs of the colony that no meeting was held for five months after his death. Then, on January 10, 1701-1702, John Lord Granville succeeded the Earl his father, as the fifth Palatine of Carolina.<sup>1</sup> The other proprietorships were represented by William Lord Craven; the Hon. Maurice Ashley, son of the second Earl of Shaftesbury; that of the minor Lord Carteret by Lord Granville. The troublesome share of Sir William Berkeley, held by Mr. Thornburgh, substituted trustee in the place of Thomas Amy, who was now dead, was in 1705 sold to John Archdale, who thus appears to have recognized the right of the four Proprietors under their purchase from Ludwell and his wife, notwithstanding his own previous purchase from that lady. The share of the Earl of Clarendon, then of Sothell, which the Proprietors had given to Thomas Amy, he had settled upon Nicholas Trott, Esq., of London, who had married his daughter,<sup>2</sup> but the other Proprietors never recognized Trott's proprietorship, nor admitted him to its possession or profits. The Colleton share was represented by the second Sir John Colleton,

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 150.

<sup>2</sup> *Danson v. Trott, et al.*, 3d *Brown's Parl. Reports*, 449. This Nicholas Trott was a cousin of the Nicholas Trott in Carolina. He was the same who joined with John Trott in giving a power of attorney to collect from William Rhett their share of a mercantile adventure.

lately become of age. That formerly of Lord Berkeley was now owned by the minor son of Landgrave Joseph Blake.

On March 11, 1701, the Privy Council announced to the Proprietors of Carolina the death of King William and ordered the proclamation of Queen Anne. This order, on March 21, the Proprietors enclose to the Governor and Council in Carolina.<sup>1</sup> On May 8, 1702, the Commissioners of Trade formally notify the Proprietors of the war with France and Spain. In the meanwhile the Board of Trade, urged on by Randolph, were advising the Royal authorities to reassume the government of the colonies and unite them under one administration. "An act for remitting to the crown the government of several colonies and plantations in America" was drawn, and only failed of passage in Parliament, it was said, by reason of the shortness of time and multiplicity of other business.<sup>2</sup>

In 1699 the Proprietors had been summoned to Whitehall and asked how it was that his Majesty's approbation had not been obtained for appointment of Governor Blake as required by the act of Parliament for preventing frauds, etc. Mr. Thornburgh, answering for them, had stated that the then Governor (Blake) was not so by virtue of any commission from the Proprietors, but by virtue of the Fundamental Constitutions as being a Proprietor himself; but that the Lords Proprietors contemplated deputing one before long.<sup>3</sup> This was not strictly true. Blake, as we have seen, had been appointed by Archdale under a power from their board, an appointment which had been approved by them.<sup>4</sup> Three years had elapsed and no appointment had been made. They now at last determined to appoint Sir Nathaniel Johnson. Hewatt states that the Proprietors could not at first obtain Queen Anne's appro-

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 151.

<sup>3</sup> *Ibid.*, 510.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 535, 540, 554. <sup>4</sup> See *ante*, pp. 287-288.



bation of Sir Nathaniel because it was suspected that he was not a friend to the Revolution, and that her approval could only be obtained on the condition of his giving security for the observance of the laws of trade and navigation, and to obey such instructions as should be sent him from time to time by her Majesty; which security the Commissioners of Trade and Plantations were ordered to take care should be sufficient.<sup>1</sup> The historian does not give his authority for the statement. It is scarcely probable that Queen Anne and her Tory administration, with Lord Godolphin at its head, would have objected to any one because he had refused to abandon the cause of the Stuarts. The requirement of security was a general regulation imposed at the instance of the Board of Trade in 1697, and which it appears the board was zealously enforcing. Sir Nathaniel was too much in accord with the political and religious views of the now dominant party in England to fear refusal of his confirmation as Governor of Carolina.

On the 18th of June, 1702, the Lords Proprietors issued their commission to Sir Nathaniel Johnson as Governor both of South and North Carolina; and with his commission they sent their instructions of the same date. He was to follow such rules as had been given to former Governors in the Fundamental Constitutions and Temporary Laws, and to be guided by them as far as in his judgment he might think fit and expedient. He was required, with the advice and assistance of his Council, carefully to review the Constitutions and to lay before the Assembly, for their concurrence and assent, such of them as he should think necessary to the better establishment of government and calculated for the good of the people. He was to use his endeavors to dispose of their lands, but to take nothing less than £20 for 1000 acres and in all

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 162.

future grants to provide that the lands should escheat to the Proprietors unless a settlement was made on them within the space of four years. He was to take special care that the Indians were not abused or insulted, and to study the best methods of civilizing them and making a firm friendship with them in order to protect the colony against the Spaniards. He was to transmit to England exact copies of all laws passed, and of all annual rents paid. An act had been passed in 1701 by the Assembly in South Carolina for regulating the proceedings of the Court of Admiralty in the province. The Proprietors sent to Governor Johnson an opinion of counsel furnished them by the Board of Trade, that its provisions were not in accordance with the practice of the High Court of Admiralty in England, and they instructed Sir Nathaniel to have the same amended as necessary.<sup>1</sup>

On the 28th of July Mr. Robert Johnson, the Governor's son, with Mr. Hutcheson, the agent of the Proprietors, attended at Whitehall and acquainting the board that he was in possession of an estate at Keeblesworth in the County of Durham with £200 per annum, which Sir Nathaniel, his father, who was tenant for life, had made over to him, he was accepted as one of his father's sureties. Mr. Thomas Cary, Archdale's son-in-law, a Carolina merchant, was taken for the other.<sup>2</sup>

Though Sir Nathaniel Johnson's commission was dated in June, 1702, it did not arrive in Carolina until some time in 1703. With his commission as Governor came also a commission for Nicholas Trott as Chief Justice, for James Moore, the Governor, as Attorney General, and for Job Howes as Surveyor General. When Granville had desired the Queen's approbation of Sir Nathaniel Johnson, the fact

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 162; *Colonial Records of No. Ca.*, vol. I, 555-557.

<sup>2</sup> *Ibid.*, 557.

was known that, while Governor in the West Indies, he had refused to take the new oaths upon the revolution in England which, as we have observed, was probably a recommendation of him to Anne, and his experience and courage were urged as particularly fitting him for the critical position of the Governor of a frontier during the war against France and Spain.<sup>1</sup>

With the new administration a new Assembly was elected, and the Colleton members charged that in this election that of the members to serve from Berkeley was managed with greater injustice to the freemen of the province even than the former. "For at this last election," they said, "Jews strangers, sailors servants, negroes and almost every *Frenchman* in Craven and Berkeley counties came down to elect and their votes were taken the persons by them voted for were returned by the Sheriff," etc.<sup>2</sup> It was the voting of the Frenchmen to which the Colleton dissenters were so opposed. This was the real ground and cause of their complaint, and the reason is obvious. There was no bitterness between the Huguenots and the High Churchmen. The Huguenots were not dissenters from the Church of England as were the Congregationalists under the lead of Morton and Boone, or as the Baptists under Screven. They were Protestants against the Church of Rome, just as were the churchmen of England. Though, in strict matter of faith, the Huguenot was a Calvinist, he had no disposition to quarrel with the establishment of the Church of England. On the contrary, he was most kindly disposed to that body, though not fully agreeing with all its tenets. When first driven from France, Canterbury offered an asylum to these persecuted Protestants, and Archbishop Parker, with the consent of Queen Elizabeth, granted the exiles the use

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 206.

<sup>2</sup> *Ibid.*, Appendix, 459.



of the undercroft or crypt of the cathedral where "the gentle and profitable strangers," as the archbishop styled them, not only celebrated their worship, but set up their looms and carried on their several trades.<sup>1</sup> The Huguenots had been protected by Cromwell, and Charles II had assisted at his own expense in the transportation of some of them to this country. They did not object to a liturgy. They themselves had been accustomed to one. It was because these people would not join the dissenters to control the colony that their indignation was so aroused because aliens were allowed to vote.

The new Assembly in April, 1703, thanked their Lordships the Proprietors for the appointment of Governor Johnson, and requested, as their own resources were exhausted by the late expedition, that the Queen would send them warlike stores and forces and a frigate, for they said: "Though we are immediately under your Lordships' government, yet we are her subjects, and we hope not only to defend ourselves, but even to take St. Augustine."

Governor Johnson devoted himself immediately to the fortification of the town and preparation for the defence of the province. With limited resources he wisely stayed at home and exerted himself to render the capital of his province as defensible as possible, but Moore, restless, energetic, and ambitious, and burning to redeem his diminished reputation, persuaded Sir Nathaniel to allow him to make another invasion of the territory of the Apalachian, northwest of St. Augustine, which supplied that place with provisions and in which there were many small Spanish forts and Roman Catholic chapels. Moore set forth in December, 1703, at the head of 50 Carolina volunteers and 1000

<sup>1</sup> *The Huguenots* (Samuel Smiles), 1868, 123; "Historical Sketch of South Carolina," Preface to *Cyclo. of Eminent Men of the Carolinas* (Edward McCrady).

Indians. The first town which he reached was one known as Ayaville, having a tolerably complete fortification with its usual appendage, a chapel. The Carolinians assaulted the fort, but were repulsed.

Balls and arrows greeted Moore's approach, from which his men first took refuge behind a mud-walled house, then, forming to the assault, they rushed forward and attempted to break down the chapel doors, but were beaten back with the loss of two men, — Francis Plowden and Thomas Dale. Two hours after they succeeded, with the aid of the Indians, in setting fire to the chapel. They captured only one white man, a friar, and about 50 Indians and over 100 women and children, and killed in the two assaults 25 men. The next morning 23 Spaniards, with 400 Indian allies, renewed battle with the Carolinians. The Carolinians were again victorious; the Spanish leader and eight of his men were taken prisoners, and five or six killed, with about 200 Indians. On the part of the Carolinians, Captain John Bellinger was killed fighting bravely at the head of his men. On the same day Captain Fox died of his wounds received at the assault at Ayaville. Five fortified towns now surrendered unconditionally.

The Cacique of Ibitachtka, being strongly posted, was treated with and compounded for safety with "his church plate and ten horses laden with provisions." "I am willing to bring away with me," says Colonel Moore, "free, as many of the Indians as I can, this being the address of the commons to your honor to order it so. This will make my men's part of plunder (which otherwise might have been £100 to a man) but small." He returned in March with 1300 free Apalachians and 100 slaves. By the devastation committed by Moore's own men and the depredations of his numerous allies, the country of the enemy was completely subdued. He received the thanks of the

Proprietors, "wiped off the ignominy of his failure at St. Augustine, and increased his means by the sale or bondage of Indian captives."<sup>1</sup>

The three ensuing years are among the most interesting in the history of the province. It was during these that, following the course of events in England, the attempt was made under the direction of Granville to exclude dissenters from participation in the government of the colony. But this important matter must be reserved for a succeeding chapter. For the present we pass over these years, to follow the events of the war between England on the one hand, and France and Spain on the other, which took place in Carolina.

Carolina, forming on the south and west the frontier of the English settlements, was open to invasion from Havana, as well as from St. Augustine. Sir Nathaniel Johnson, having long expected an attack from the French and Spaniards, had exerted himself to put the town and colony in the best state of defence. His first measure was one which was to be the basis of all future legislation in regard to the domestic police of the province and State, until the abolition of slavery. From the preamble of the act, which was passed in 1704,<sup>2</sup> we learn that its purpose was to provide against insurrections of the negro slaves upon occasions of invasion of the province which would draw the men of the colony to the coast. It provided for the draft of ten men from every militia company properly mounted, armed, and accoutred under a captain or other officer, whose duty it was to muster his men as a patrol upon all occasions of alarm, and at other times, as often as he or the General should think fit, and with them to ride

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 208, 209; Moore's account, Carroll's *Coll.*, vol. II, 574. Hewatt's *Hist. of So. Ca.*, vol. I, 157.

<sup>2</sup> *Statutes of So. Ca.*, vol. II, 254.



from plantation to plantation, and to take up all slaves which they should meet without their masters' plantations, which had not a permit or ticket from their masters, and to punish them as provided by the act for the better ordering of slaves. Upon this beginning was based the patrol laws which, modified from time to time, formed the military police system of which we have spoken in the introductory chapter. In the meanwhile the Governor pressed forward the work upon the fortifications and preparations for defence against the threatened invasion. In a letter of the Grand Council to the Queen's officers in England, written in 1708, the defences of the town erected at this time are thus described:—

“Charles Town the chief port in Carolina by the direction and dilligence of our present governor, Sir Nathaniel Johnson, is surrounded with a regular fortification, consisting of bastions, flankers and half moons ditched and palisaded and mounted with 83 guns. Also at the entrance of the harbor in a place called Windmill Point (within a carbine shot of which all vessels must pass by) is now building and almost finished a triangular fort and platform of capacity to mount 30 guns which when finished will be the key and bulwark of this province but wanting some large heavy guns both for the fortification and about Charles Town and the said fort and platform together with a suitable store of shot.”<sup>1</sup>

Windmill Point is that ever since known as Fort Johnson.<sup>2</sup> Trenches were cast up on White Point, now the Charleston Battery, and other places where thought necessary. A guard was stationed on Sullivan's Island, which

<sup>1</sup> MSS. Letter to Board of Trade, quoted by Rivers, *Hist. Sketches of So. Ca.*, 207.

<sup>2</sup> The point from which the first gun in the late war between the States was fired.

commanded a view of the ocean, with orders to kindle a number of fires opposite to the town equal to the number of ships that might appear on the coast.<sup>1</sup>

Yellow fever, which had first visited Charles Town in 1699, again made its appearance in 1706, and was raging in the town when news came that an expedition was being organized at Havana for the invasion of the place.

Governor Johnson had taken the precaution of having a privateer fitted out for cruising on the coast, under the command of Captain Stool, who was to keep a lookout, and was particularly charged to intercept supplies which were regularly sent to St. Augustine from Havana. Captain Stool had been out a few days when, on Saturday, the 24th of August, he returned, bringing the report that he had engaged a French sloop off the bar of St. Augustine, but upon seeing four other ships advancing to her assistance, he thought proper to make all the sail he could for Charles Town and had narrowly escaped falling into the enemy's hands. Scarcely had he made this report when five separate smokes appeared on Sullivan's Island as a signal to the town that that number of ships was observed on the coast.

This invasion had been concerted at Havana. Monsieur Le Feboure, a captain of a French frigate, with four armed sloops had set sail for Charles Town, with directions to touch at St. Augustine and to carry from thence such a force as he judged adequate to the enterprise. Upon his arrival at St. Augustine he had learned of the epidemic which raged at Charles Town, and that it had swept away a vast number of the inhabitants. This, instead of intimidating and deterring him from his purpose, determined him to proceed with greater expedition, hoping to find the town in a weak and defenceless condition, as the country militia, he supposed, would be afraid

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 180.

to come to its support because of the fatal infection. Taking on board a considerable number of men at St. Augustine, he made sail for Carolina.

Sir Nathaniel Johnson at the time was at his plantation Silk-Hope, several miles from town, but Lieutenant Colonel Rhett, commanding officer of the militia, who was on the spot, immediately ordered the drums to beat and all of the inhabitants to be put under arms. A messenger was dispatched with the news to the Governor and orders to all the captains of militia in the country to fire alarm guns, raise their companies, and march to the assistance of the town.

In the evening the enemy's fleet came to the bar; but as the passage was intricate, they did not think it prudent to venture over it in the darkness of the night. Early Sunday morning, the 25th, watchmen on Sullivan's Island observed them a little to the southward of the bar manning their galley and boats as if they intended to land on James Island. But they came to anchor and spent all that day in sounding the south bar. This delay was of great consequence to the Carolinians, as it afforded time to collect the militia in the country.

Sir Nathaniel Johnson came in on Sunday, and found the inhabitants in great consternation, but being a man of established courage and skill in war, his presence inspired the people with confidence and resolution. To avoid exposing the country troops to the contagion of the town, he established his headquarters about half a mile from it. Martial law was proclaimed. In the evening Major George Broughton, with two companies, and the gentlemen of Colonel Logan's troop arrived and kept watch during the night. Early on Tuesday morning, the 27th, Captains Johnson, Linche, and Hearne, and Drake from James Island were posted with their companies in the immediate neigh-



borhood of the town. The same morning the enemy, with four ships and a galley and a number of boats for landing their men, crossed the south bar and stood for the town with fair wind and tide; but when they came in view of its fortification, where the Governor with his forces stood ready to receive them, they suddenly bore up and came to anchor under Sullivan's Island. A sloop, which had been sent over to Wando River to bring Captain Fenwicke and his company, succeeded in doing so, notwithstanding an attempt of the enemy's galley to intercept them.

The next morning, Wednesday, the 28th, Captains Longbois from Santee and Seabrook from the islands, disregarding the pestilence, marched their men into the town. As the enemy hesitated, a council of war was held, and Governor Johnson determined to assume the offensive, and to go out and attack them. Three ships, a brigantine, two sloops, and a fireship, all the harbor afforded, were manned and equipped, and Colonel Rhett, who fortunately was a sailor, was commissioned as Vice Admiral, hoisted his flag, and was ready for action.

Observing these preparations for resistance, the enemy, who had so boldly crossed the bar, resorted to parley. They sent up a flag of truce to the Governor, summoning him to surrender. The flag was received by Captain Evans, the commander of Granville's Bastion, and the messenger upon landing was at once blindfolded, and held until Governor Johnson was ready to receive him. When taken to his presence, the messenger informed the Governor that he was sent to demand, in the name of the French King, the surrender of the town and country, and the inhabitants as prisoners of war, and that only one hour was granted for his decision. The Governor promptly and emphatically replied "that it needed not a quarter of an hour or a minute's time to give an answer to that de-

mand, for he might see he was not in such a condition as to be obliged to surrender the town; but that he kept the same and would defend it in the name and by the authority of the great Queen of England and that he valued not any force he had; and bid him go about his business."

Governor Johnson was given but an hour to reply; but when the reply was so promptly made, the demand was not followed up by the French commander at the expiration of the hour or even at the end of the day, nor was any general attack made. The day following, Thursday, the 29th, a party of the enemy went ashore on James Island and burnt the houses on a plantation by the river side. Another party, consisting of 160 men, on Friday morning, the 30th, landed on the opposite side of the harbor, and burnt two vessels in Dearsby's, now Shem's, Creek, and set fire to his storehouse. Captain Drake and his company, with a small party of Indians, was sent to James Island, to meet the enemy there, while Captain Fenwicke and Cantey crossed the Cooper, and marched against the party which had landed in Wando Neck. The latter party came up with the enemy before the break of day and, finding them unguarded with their fires burning, surprised them. A brisk engagement ensued, in which about a dozen of the invaders were killed and thirty-three taken prisoners. Some perished in attempting to escape by swimming. On the side of the Carolinians there was but one killed. Sir Nathaniel now assumed the aggressive. Colonel Rhett, with a fleet of six small vessels, on Saturday morning, the 31st, sailed out and proceeded down the river to where the enemy's ship lay at anchor. In haste and confusion they weighed and stood for sea. Threatening weather prevented a pursuit. Nothing more was heard of the enemy; but to be assured of their departure, on Sunday, the 1st of September, the Governor ordered

Captain Watson of the *Sea Flower* to search and report. The captain returned without seeing the enemy, but observing some men on shore whom they had left behind, he took them on board and brought them to town.

The country companies had been discharged and martial law had ceased, when information was now brought that a ship had anchored in Sewee Bay and landed its crew. Captain Fenwicke was at once, on Monday, the 2d of September sent by land against this new movement; while Colonel Rhett, Captain Evans, and a number of gentlemen as volunteers, went by sea in a Bermudian sloop with the privateer which had brought the information of the invasion. This ship at Sewee was one of the French fleet under Captain Pacquereau, having 200 men on board, and had been intended as an important part in the invasion. Captain Pacquereau does not seem to have been aware of the repulse of his comrades. A party of his men crossed the main from Sewee Bay to Hobcaw through Christ Church parish; there Captain Fenwicke attacked them, killed fourteen and took fifty prisoners, while the same day Colonel Rhett entered Sewee Bay and the ship immediately surrendered with ninety men aboard. Mr. John Barnwell, a volunteer, was dispatched by Colonel Rhett with news of the capture, as the contrary winds prevented the immediate return of the little victorious fleet with their prize and many captives. There were now 230 French and Spanish prisoners in Charles Town. It is not known how many, if any, of them died of yellow fever.<sup>1</sup>

The Governor thanked the citizen soldiery who had

<sup>1</sup> This account is taken from Hewatt and Rivers. Ramsay follows *verbatim* that of Hewatt. Rivers's account is based upon the more reliable authority of a report written in Charles Town September 13, 1706, published in the *Boston News Letter*, and republished in the *Carolina Gazette*, June 2, 1766, which paper is to be found in the files in the Charleston Library.



responded so promptly to his call, under circumstances so unpropitious, for their valor and for their humanity, especially at a time when such violent estrangements existed between political parties. On the other hand, the Governor himself received from the Proprietors a substantial token of their approbation in a tract of land granted in terms most flattering and honorable. And well they might, for the funds for necessary expenses were raised by Governor Johnson on his individual responsibility.<sup>1</sup>

Thus ended, says Rivers, the first attempt to take the city of Charlestown by a naval force, which failed, not through the strength of its fortifications nor the multitude of its defenders, but through the courage and activity of its citizens. Since Rivers wrote, another and more signally glorious defence of the city has been made, whereupon a recent English author has written: "Three times has Charlestown been attacked from the sea. Twice in the last century, and once in the present, have the ever-growing resources of naval warfare been brought to bear upon her walls. Dalgren's monitors were as powerless against her mighty natural defences as the French privateers or as Parker's men-of-war, and the stronghold of slavery only sank in the common downfall of that cause of which she was the parent and leader. But of the three defences of Charlestown all marked by conspicuous resolution on the part of the garrison, the first is the only one with which Englishmen can well feel sympathy. In each of the latter sieges the assailants and defenders were of the same race and speech. The settlers who held Charlestown against the allied forces of France and Spain were partners in the glory of Stanhope and Marlborough, heirs to the glory of Drake and Raleigh."<sup>2</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.*, 214, note.

<sup>2</sup> Doyle's *English Colonies in Am.*, 368.

## CHAPTER XVIII

1704

CAROLINA was a part of the British Empire, and a part which, though so distant, was drawing more and more closely in interest to the mother country. In the early days of the colony, the colonists had been too much engaged in clearing the grounds for their settlements, and erecting their cabins in the woods, to take much interest in the affairs of the old country. Busy in the first attempt at a settlement at Old Town on the Ashley, and their minds continually occupied with apprehensions of Indians and Spaniards, they had not been much concerned with the occasional news which reached them from England of the withdrawal of the Declaration of Indulgence to the Roman Catholics, or the Test Act, by which the reception of the sacrament, according to the forms of the Church of England, and renunciation of the doctrine of transubstantiation, were made the qualifications for office. Nor after their removal to Oyster Point had they felt themselves much interested in the Popish plot, or Exclusion Bill, or the Revocation of the Edict of Nantes, save inasmuch as these measures had driven to the province the non-conformists under Morton and Axtell, and the French Protestants under Petit and Grinard. The death of Charles II and the accession of James had not disturbed them. Their political thoughts had been chiefly engaged in resisting the absurd Fundamental Constitutions of Locke,

which the Proprietors were endeavoring to force upon them, and in extorting from their Lordships assurance of their titles to land, and the tenures under which they were to be held. But communication with London and Bristol and Dublin was now constant, not only through the Proprietors, but by the mercantile intercourse, which was steadily increasing. The province was beginning to recognize itself as a part of England, and every pulsation of political life there was now felt in the province without diminution, and was acted upon with as much zeal as at home. Political sentiment in Carolina at once responded, therefore, to the revival of Toryism upon the accession of Queen Anne, — a revival here which was greatly enhanced by the appointment of the faithful old soldier and follower of the Stuarts, Sir Nathaniel Johnson, as Governor of the province. During the ascendancy of the Whigs under William III, Smith, Blake, and Archdale, all dissenters, had governed the colony. They had each and all, it is true, recognized the Church of England as the established church of the province, and Blake had been most liberal in his conduct to it. Still the colony had been, until Moore's interregnum administration, under the government of dissenters, who, it was claimed, constituted a majority of the people. But now the Palatine and the Governor were both High Churchmen.

The party of Blake, Morton, and Axtell, led, at this time, by Joseph Boone and John Ash, claimed to be no less than two-thirds of the colonists. But, as it has been observed, this we may doubt, as it is difficult to understand how a minority could force measures on a reluctant majority, even if we suppose, which is in itself unlikely, that the minority was completely united in itself.<sup>1</sup> The mistake was in counting as dissenters all who were not

<sup>1</sup> Doyle's *English Colonies in Am.*, 370.



churchmen. Thus, for instance, as we have before said, the French Huguenots were not dissenters; nor were the German Lutherans, who were becoming quite numerous in the colony. The sympathies of both of these classes were rather with the churchmen than with the dissenters. This was recognized in the opposition of the latter to extending the elective franchise to any who were not native-born Englishmen; and was proved by the readiness with which the clergymen of both these denominations accepted Episcopal rule and connected themselves with the Church of England.

As the chief obstacle in the way of carrying out in England the principle of uniformity in Church as well as in State, which had been Clarendon's policy upon the restoration of Charles II, had been the Independents and Presbyterians, whose strongholds were the corporations of the boroughs, in many of which the corporations actually returned the borough members, and in all of which they exercised a powerful influence, it became necessary to drive the dissenters from municipal posts, in order to weaken, if not to destroy, that party in the House of Commons.<sup>1</sup> To accomplish this, the famous Test and Corporation acts, passed by a Cavalier Parliament, required, as a condition of entering upon any office, — civil, military, or municipal, — the reception of the sacraments, according to the forms of the Church of England, a renunciation of the League and Covenant, and a declaration that it was unlawful, on any grounds, to take up arms against the King. William's attempt partially to admit dissenters to civil equality by a repeal of these acts had failed; but many dissenters had evaded their provisions by occasionally partaking of the communion as required, though they subsequently attended their own chapels. It was against this "occa-

<sup>1</sup> Green's *Hist. English People*, vol. III, 360.

sional conformity" that the Tories, now once more in power, introduced a test, which, by excluding the non-conformists, would have given them the command of the boroughs. This test first received the support of Marlborough, then all-powerful under Queen Anne; but the Whigs, who had ruled under William, still held the House of Lords, and rejected it as often as it was sent up to them.<sup>1</sup>

All the world, says Oldmixon,<sup>2</sup> knew how zealous Lord Granville had been for promoting the bill against "occasional conformists" in England, that he had openly shown his aversion to dissenters, and had been removed from a high position because of the bitterness of his speeches in regard to them. However this may have been, there can be no doubt that Lord Granville warmly espoused the cause of the High Churchmen in Carolina, and that it was through his influence that an attempt was made in this province similar to that against the "occasional conformity" in England. In England, however, it was only a part of the representation in the Commons—the burgesses of the cities and boroughs—that could be reached by the Test and Corporation acts. The knights of shires, the other component part of the Commons, could not be; but in Carolina the whole representation in the Commons House was subject to statutes passed in the General Assembly here, and approved by the Proprietors in England. Lord Granville, the Palatine, determined that, though the Tories at home could not exclude all who were not churchmen from the Commons in Parliament, he at least would make the attempt to do so in Carolina. In this attempt he had the zealous cooperation of the noble, if somewhat bigoted, Governor,

<sup>1</sup> Green's *Hist. English People*, vol. IV, 87.

<sup>2</sup> *British Empire in Am.*, vol. I, 474.

Sir Nathaniel Johnson; of the astute, if unprincipled, Chief Justice Nicholas Trott; and also of Colonel William Rhett, who, though of choleric and violent disposition, appears to have been sincere and earnest in his devotion to his church.

The Assembly, which the Colleton dissenters charged had been so irregularly and scandalously elected, had chosen Mr. Job Howes as Speaker. They had been prorogued to the 10th of May, and the time of their reassembly had not yet arrived. They were now called by the Governor in extra session, and on the 4th of May, 1704, Colonel Risbee asked leave to introduce a bill. It was read. Its title was: "*For the more effectual preservation of the government of this province by requiring all persons that shall hereafter be chosen members of the Commons House of Assembly, and sit in the same to take the oaths and subscribe the declaration appointed by the act and to conform to the religious worship in this province according to the Church of England, and to receive the sacrament of the Lord's Supper according to the rites of the said church.*"

Some members immediately called for the reading of the "grand charter." But the opposition was overcome. The bill was passed through its first reading with amendments, and Colonel Risbee was ordered to present it to the Governor and Council. They passed it, and returned it to the House. The next day it received its second and third readings, and was sent as a law for ratification to the Governor and Council. It bears date the 6th of May, and was signed by Sir Nathaniel Johnson and Colonel Thomas Broughton, Colonel James Moore, Robert Gibbes, Esq., Henry Noble, Esq., and Nicholas Trott, Esq., of the Council. It was passed in the Assembly by a majority of one, twelve voting for it and eleven against



it; among the latter were some churchmen. Seven members were absent.<sup>1</sup>

The preamble to the act declared, as the reason for its passage, that while nothing was more contrary to the profession of the Christian religion, and particularly to the doctrine of the Church of England, than persecution for conscience only, yet nevertheless it had been found by experience that the admitting of persons of different persuasions and interests in matters of religion to sit and vote in the Commons House of Assembly had often caused great contentions and animosities in the province, had very much obstructed the public business, and that by the laws and usage of England, all members of Parliament were obliged to conform to the Church of England by receiving the sacrament of the Lord's Supper according to the rites of the said church. It was doubtless true that the Colleton dissenting members of the House, in order to enforce the passage of an election law to exclude the Huguenots from voting, had obstructed the business of the House at a time when the safety of the province from invasion demanded the united action of every patriotic citizen. And this was done, it was also true, merely to secure their own political ascendancy. The provocation to the churchmen in Carolina was therefore great, even had they not the additional incentive of Granville's wishes to accomplish the purpose as a part of the politics in England. But it was not true that members of the British Parliament were obliged to conform to the Church of England by receiving the sacrament. And it is extraordinary that such a statement should have been made with the sanction of Sir Nathaniel Johnson, who himself had been a member of Parliament.

There was no law nor custom requiring a member of

<sup>1</sup> *Hist. Sketches of So. Ca.*, 218.

Parliament to do so. The Test and Corporation acts affected the membership of that body, but partially and by indirection. Of the two constituent parts of the House, the knights of the shire and the borough members, they could reach only one. The knights of shires, *i.e.* the county members, who were, however, usually churchmen, were not affected by them. They operated only upon the members of corporations as electors of burgesses. But their effect, even as to these, had been, in a great measure, avoided by the custom of "occasional conformity." There was no precedent at home, therefore, for the stringent measures by which the churchmen in Carolina were outstripping the Tories in England, in their efforts to exclude the dissenters from participation in the government.

Based upon this false premise, the act required that every person thereafter chosen a member of the Commons House should receive the sacrament of the Lord's Supper according to rites and usage of the Church of England in some public church upon some Lord's Day, commonly called Sunday; and should deliver to the Speaker a certificate of his having done so under the hand of a minister, or make proof by two credible witnesses. Apart from other hardships and injustice of this requirement was this, that there was but one church as yet outside of Charles Town, *i.e.* Pompion Hill chapel on Cooper River, so that to comply with the act — if assented to — would require every member elected to journey to the town or to Pompion Hill on some Lord's Day for the purpose. But there was a difficulty in the way of this act on the part of some, at least, of its supporters. Some of them, though professing to be members of the church, were not themselves communicants. Indeed, it was charged that some of them were blasphemers and hard livers. Mr. Marston, the minister of St. Philip's Church, who became involved in the

controversy, declared that many of the members of the Commons House that passed the act were constant absentees from the church and that eleven of them were never known to have received the sacrament of the Lord's Supper, though for five years past he had administered it in his church at least six times a year. This charge is countenanced by a provision which would cover just such cases. It was provided that, as some persons might scruple to receive the sacrament by reason of their fears that they were not rightly fitted and prepared to partake of that ordinance, who did nevertheless, out of real choice, conform to the Church of England and sincerely profess the same, such persons upon making oath to the fact, and that they usually frequented the church for public worship, and did not avoid the communion from any dislike of the manner or form of its administration as used by the Church of England and prescribed in the Book of Common Prayer, and making profession of conformity as required by the act, were declared sufficiently qualified to be members of the House.

As might be supposed, the bill met with vehement opposition. In the House Thomas Jones, John Beamer, Laur Denner, William Edwards, and John Stanyarne entered under leave their dissent in these words, "that King Charles II having granted a liberty in his charter to the people for the settling of this colony, we think the above bill too great an infringement on the liege subjects of his Majesty"; Charles Colleton, "that the said bill is not proper for the inhabitants of the colony at this time"; James Cochran because "contrary to the liberties of the inhabitants of the province, which liberty hath encouraged many persons to transport themselves into the province." In the Council Landgrave Joseph Morton was denied leave to enter his protest against the act. There being



no further use for the Assembly, it was prorogued till October.<sup>1</sup>

Colleton's objection was the correct one. The act was not a proper one for the colony. But an appeal to the Royal charter would not have helped the opponents of the measure. That instrument did not guarantee the right of participation in the government to persons of all religious denominations. It provided that no person should be molested or called in question for any differences of opinion or practice in matters of religious concernment, who did not actually disturb the peace; but that did not give the right to dissenters, any more than to Roman Catholics, to take part in the government. The religious liberty and freedom which the charter guaranteed related only to the exercise of religion without molestation; and even in that it was restricted to such indulgences and dispensations as the Proprietors should think fit to grant. Nor could appeal be made to the Fundamental Constitutions, for the Church of England was declared by those laws to be "the only true and orthodox and the national religion of all the King's dominions."

But all the churchmen in the colony did not approve the measure. It met with opposition from a quarter little to have been expected, and became involved in other issues.

Upon the death of Mr. Marshall, in 1699, the Governor and Council had written to the Lord Bishop of London telling him of Mr. Marshall's death; of the great virtues he had exhibited during his short life in the colony; how that by his easy, and, as it were, natural use of the ceremonies of the church, he had taken away all occasion of

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 218, 219, quoting *Journals*.

The term "prorogue" is used in cases in which the Assembly is adjourned by the Governor from time to time. The term "adjourn" is used in cases in which the Assembly ends its session by its own motion.

scandal at them, and by his prudent and obliging way of living and manner of practice he had gained the esteem of all persons; and praying that his Lordship would send them such another. The same encouragement and provision as was made for Mr. Marshall, they said, was settled by act of Assembly upon his successor, a minister of the Church of England; viz. £150 yearly, a good brick house and plantation, two negro slaves, and a stock of cattle, besides christening, marriage, and burial fees.<sup>1</sup>

Before learning of the death of Mr. Marshall, the Proprietors had secured the services of the Rev. Edward Marston, M.A., for Pompion Hill chapel in the neighborhood of Sir Nathaniel Johnson, the settlements on Goose Creek and Cooper River.<sup>2</sup> Mr. Marston had been recommended not only by the Bishop of London, but by the Archbishop of Canterbury. Upon his arrival, in 1700, he was put in charge of St. Philip's Church in the place of Mr. Marshall. And the Rev. Samuel Thomas, the first missionary sent out by the Society for the Propagation of the Gospel, designed for a mission to the Yamassee Indians, coming out soon after, but the disturbed condition of the country in consequence of the Spanish invasion and St. Augustine expedition rendering service among the Indians impracticable, Governor Johnson had substituted him to the care of the people upon the three branches of Cooper River in the place of Mr. Marston; his principal place of residence to be at Goose Creek.

Unfortunately, Mr. Marston was of a very different character from that ascribed to Mr. Marshall, whom he

<sup>1</sup> Dalcho's *Ch. Hist.*, 37.

<sup>2</sup> This was the first Episcopal or English Church in the province outside of Charles Town. It was erected by the parishioners, with the liberal assistance of Sir Nathaniel Johnson, on the east branch of Cooper River. It was built of cypress, thirty feet square, upon a small hill usually called Pompion Hill.

succeeded. Though recommended by the Archbishop of Canterbury as well as by the Bishop of London, he had been a notorious Jacobite ere his coming to the province, and was for a time imprisoned in England for railing against the government.<sup>1</sup> He brought over with him the same violent passions and contentious disposition. A Jacobite in England in the reign of William, he turned with equal rancor against the churchmen in Carolina under Queen Anne. He threw himself into violent opposition to the act which now so excited all parties, and vehemently assailed from his pulpit not only the measure itself, but all who supported it. He was thereupon ordered by the House to lay the minutes of two of his sermons before its bar. This he refused to do, and the House addressed the Governor upon the subject before its adjournment. This Mr. Marston still more resented, and in a sermon preached the Sunday before the Assembly reconvened in October, he again attacked the House, charging it with calumniating and abusing him. Again the next Sunday, that is, the Sunday after the meeting of the Assembly, he boldly declared that though he had been ordered to lay his sermons before the House, he did not think himself obliged to do so, and asserted that he was in no wise obliged to the government for the bountiful revenues they had allowed him; that he did not think himself inferior to them or obliged to give an account of his actions to them; that though they gave him a maintenance, he was their superior, his authority being from Christ. He compared the members of the House to Korah and his rebellious companions.

Mr. Marston had meddled in another matter with which he had no concern. The Colleton members, who had withdrawn from the House the year before, had sent Mr. Ash to Europe to lay their grievances before the Lords

<sup>1</sup> *Hist. Am. Episcopal Ch.* (Bishop Perry), vol. I, 376.



Proprietors, and, if necessary, before the Royal Government itself. Apprehending that if the purpose of his voyage was known he might be in some way detained, Mr. Ash had hurried to Virginia, to sail thence instead of embarking for England from Charles Town, and there Landgrave Smith had addressed him letters reflecting very sharply upon the conduct of the House. Just before the adjournment of the Assembly, Smith wrote to Ash, June 30, 1703, the House had passed "a noble vote" interpreting the "Regulating Bill," that is, the law regulating elections so that foreigners, as well as natural-born subjects, should have the liberty to vote if they were worth £10 and had been in the province three months; "and honest Ralph," he said, "who loves slavery better than liberty moved your Honorable assembly to bring in a bill to naturalize all foreigners next spring . . . so that unless we have a Regulating Bill and some other acts passed in England for the good government of this country I cannot see how we can pretend to live happy here." Again, on the 25th of July, Smith wrote to Mr. Ash: "Enclosed you will find another copy of the famous vote of our Assembly for fear the same should not come to your hands; also a copy of their Act against Blasphemy and Profaneness which they always made a great noise about, although they are some of the most profanest in the country themselves; yet you know great pretenders to religion and honesty for a colour for their Roguery."<sup>1</sup>

These letters fell into the hands of Governor Johnson. Oldmixon says they were betrayed into his hands upon the death of Mr. Ash, which occurred in England soon after his arrival there. Governor Johnson, on the reconvening of the Assembly on the 5th of October, laid the letters before the House, that they might, he said, take such

<sup>1</sup> Dalcho's *Ch. Hist.*, 56, quoting MSS. *Journals*.

measures as should make Mr. Smith sensible of his fault and might deter all others for the future from committing like offences against the government. Landgrave Smith attended the House on the 9th and acknowledged the letters, whereupon he was taken into the custody of the Messenger.

This was certainly a most arbitrary and unwarranted proceeding, appertaining more to the military character of Sir Nathaniel than illustrating his prudence and justice as a civil administrator. Mr. Smith had certainly the right to express his opinion of the proceedings of the House in a private letter to his personal correspondent, even though that person was on a journey to complain of the conduct of the government to the authorities in England. He had committed no contempt of the House in doing so; the Governor's conduct was not above the criticism of the humblest citizen. But all this was none of Mr. Marston's business as a minister of the church. He had no more right to arraign the government from his pulpit than the House had to arrest Landgrave Smith for opinions expressed in private letters. But, burning to be prominent in all affairs, he again preached at the House, denouncing it as having proceeded illegally and arbitrarily against Mr. Smith; and ostentatiously visited him while in the custody of the officer. Upon this the House, which appears on the other hand to have been ridiculously sensitive as to its dignity and unnecessarily disposed to assert it, summoned Mr. Marston to its bar. The reverend gentleman appeared, but continuing in his controversy, the Governor, Council, and House deprived him of his salary, and in doing so, thus addressed him:—

“Now as to your Office and Ecclesiastical function we do not pretend to meddle with it, although by your Carriage of late you have deserved to be taken notice of,

but we leave those matters to your Ecclesiastical Governors and Ordinary to proceed against you for this House doth not pretend to meddle with your Function. But for your imprudent carriage and behaviour above recited it's the Resolution of this House, and it's ordered that whereas £150 is to be paid yearly to the Minister or Incumbent of Charles Town by the Public Receiver that you be deprived of the Salary during the pleasure of this House, and that you continue so deprived until such time as by an Order of this House upon Amendment better Behaviour and Submission you be restored to the same."

Mr. Marston refused to hear this censure and withdrew. The House from regard for his profession, as it declared, "did not order him into the custody of the messenger," but directed him to be served with a copy of the censure.<sup>1</sup>

When the Assembly met in October, none of those who had protested against the disqualifying act appeared at first in their seats. Much time was consumed in settling Mr. Marston's case. Notwithstanding Mr. Marston's conduct, the churchmen proceeded to provide for the establishment of religious worship in the province according to the Church of England. This much was undoubtedly contemplated by the charter and provided for in the Fundamental Constitutions, which the dissenters were now representing to the Proprietors to be the accepted law of the land. But in the measures proposed a clause was inserted, directed, as Governor Johnson subsequently admitted, to meet the case of Mr. Marston, "the pest of the country" as he termed him. Mr. Marston was undoubtedly the immediate cause of the provision, but Oldmixon, who so vehemently assails the act as uncanonical and unjust, in his account of the West Indies has given the strongest

<sup>1</sup> Dalcho's *Ch. Hist.*, 57, 58.



evidence of the necessity of some provision for the supervision of clergymen coming out to the colonies.

Mr. Ralph Izard — “honest Ralph” of Landgrave Smith’s letter — introduced the bill. It was entitled “*An act for the establishment of religious worship in this Province according to the Church of England, and for the erecting churches for the public worship of God, and also for the maintenance of ministers and the building of convenient Houses for them.*”<sup>1</sup> The act prescribed that the Book of Common Prayer and administration of the sacrament, and other rites and ceremonies of the church, the Psalter or Psalms of David, and Morning and Evening Prayer therein contained, should be read by every minister or reader settled and established by law, and that all congregations and places of worship, for the maintenance of whose ministers any certain income or revenue was raised or paid by law, should be deemed settled and established churches.

Charles Town and the neck between Cooper and Ashley Rivers were made into a distinct parish by the name of the parish of St. Philip’s in Charles Town. The church in Charles Town (*i.e.* that which stood where St. Michael’s now stands), and the ground thereunto adjoining enclosed and used for a cemetery or churchyard, were declared to be the parish church and churchyard of St. Philip’s, Charles Town.

Berkeley County was divided into six parishes: “one in Charles Town, St. Philip’s; one upon the southeast of Wando River; one upon that neck of land lying on the northwest of Wando and southeast of Cooper River; one on the western branch of Cooper River; one upon Goose Creek; and one upon Ashley River.” Six churches were to be built, one in each of the five parishes outside of Charles Town, and one on the south side of Stono River

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 236; Dalcho’s *Ch. Hist.*, 58.

in Colleton County, which territory was not, however, made into a parish. Lands were to be taken up from the Lords Proprietors, or purchased for glebes and rectories. The expense of building these churches, parsonage houses, etc., were to be defrayed out of any subscriptions made for that purpose; the balance to be paid out of the public treasury. Supervisors for building these churches and parsonages were appointed, with power to press bricks, or lime, and other material, and to compel carpenters, joiners, workmen, and laborers to work under the same provisions and penalties as were prescribed for building the entrenchments and fortifications of the town. The supervisors had also power to press slaves for work upon these buildings. In addition to the glebe, parsonage houses, negroes, etc., which should appertain to each, the incumbent of each parish church was to draw a salary of £50 per annum from the public treasury. It was provided that the ministers of the several parishes should be chosen by the major part of the inhabitants of the parish that were of the religion of the Church of England and conformed to the same, and were either freeholders within the parish or contributed to the public taxes. Then followed the clause providing for the lay commission, with power to remove or suspend incumbents from their benefices.

As we have before intimated, though probably the approximate cause, Mr. Marston's conduct was not the sole inducement to the enactment of the provision. The position of the clergy of the Church of England in the colonies was peculiar. The jurisdiction of the Bishop of London was generally acceded to in the American colonies, but not universally; no provision had been made by the civil government or by the Church of England for the Episcopal supervision of the clergy who came out to America.

In the early settlement of Virginia, Bishop King, the then Bishop of London, who had taken great interest in that colony, had in consequence been chosen a member of the King's Council for that province. In this position it was but natural that in all ecclesiastical matters he should be consulted, and there grew out of his personal interest the recognition, to some extent, of his spiritual jurisdiction.<sup>1</sup> Beginning probably in this way, Episcopal jurisdiction of the colonies was generally assumed by Bishop King's successors, the Bishops of London. Other reasons were also assigned for its support. Here it was said to be because, as London was the commercial city of England, by a fiction the Bishop of London's jurisdiction went with London commerce. However originating, the Bishop of London's jurisdiction, or at least the right to his especial care and oversight, had hitherto been accepted and acted upon in the colony. Governor Blake and his Council, as we have just seen, acting upon it, had, upon the death of Mr. Marshall, immediately applied to Bishop Compton, asking him to send out a successor. But this jurisdiction was elsewhere questioned. It was disputed in Maryland,<sup>2</sup> and was denied in the West Indies. In Jamaica it was barred by the laws of the colony, and the Governor, as the supreme head of the provincial church, not only inducted

<sup>1</sup> *Hist. Am. Ch.* (Bishop Perry), vol. I, 74.

Anderson, in his *History of the Colonial Church*, gives another version. He attributes the origin of the Bishop of London's jurisdiction to a letter from Archbishop Laud to the merchants at Delph, and instructions to Mr. Beaumont to certify to the Bishop of London any disobedience of the King's ordinance enforcing the canons and liturgy of the church. (Vol. I, 410). He admits, however, that he cannot find any other measure by which Virginia was formally constituted a part of the diocese of London than Bishop King's connection with the King's Council. *Ibid.*, 261.

<sup>2</sup> *Maryland, Am. Commonwealth* (Brown), 192; Anderson's *Hist. of the Colonial Ch.*, vol. III, 179.



clergymen into their benefices, but was vested with power also of suspending a clergyman for lewd and disorderly life upon the application of his parishioners.<sup>1</sup>

Fortunately for the church in South Carolina, as it happened, blessed with the aid of the Society for the Propagation of the Gospel, in the benefits of which she was the first of all the colonies to participate, and by the care of her Governor and Council, her clergymen generally were men of character fully worthy of their high calling. Governor Craven in 1712, recommending provision for their remuneration, could truthfully say: "We may boast as learned a clergy as any in America, men unblemished in their lives and principles, who live up to the religion they profess; some of them have been long amongst us to whom a particular regard is due; always indefatigable in their functions, visiting the sick, fearless of distempers and never neglecting their duty," etc.<sup>2</sup> However contentious and contumacious was Mr. Marston, not even in his case, it must be recorded, was there breath of suspicion of immoral conduct. But, unhappily, such had not been the character always of the clergymen of the church, who had been sent out to America. They had been often the outcasts of the church at home. Oldmixon himself, in his history of Jamaica, has given, on the authority of other writers and on his own testimony, a most deplorable account of the clergy of that island. They were of vile character, and with few exceptions the most finished of all debauchees. They troubled themselves little about the church, the doors of which were seldom opened.<sup>3</sup> The same complaint, he says, was general over all the colonies. In Maryland "the Reprobate Coode," a blatant blasphemer

<sup>1</sup> *Hist. West Indies* (Bryan Edwards), vol. I, 208.

<sup>2</sup> *Public Records So. Ca.*

<sup>3</sup> *British Empire in Am.*, vol. II, 374-418.

and drunkard, was intriguing and disturbing the peace of the Commonwealth, and the good Dr. Bray, the commissary of the Bishop of London, with his disputed title, found no easy task in his efforts at the reformation of others.<sup>1</sup> Though the jurisdiction of the Bishop of London was not questioned in Virginia, even there the authority of his Commissary Blair was found a very insufficient substitute for the superintendence of a faithful bishop.<sup>2</sup> Men representing themselves as clergymen of the church presented themselves without letters, and there was no means of ascertaining whether they really had orders. The litigious and erratic Marston was followed by a fugitive from Maryland, Richard Marsden by name, who claimed to be a clergyman, and accounted for the absence of his letters by the improbable story that they had been blown overboard by the wind at sea, when he was drying them after a storm.<sup>3</sup>

It was in this condition of the Church of England in America, that the Governor and Assembly in South Carolina found themselves, while endeavoring to establish the church in the province, in actual contention with a clergyman for whose support they were providing, while he was in open defiance of their authority. It is not improbable that had there been no trouble with Mr. Marston, the provision for removing incumbents, when necessary, would yet have been made, as similar provisions then existed in the West Indies. Mr. Marston's conduct was, nevertheless, the immediate inducement to its adoption. The rea-

<sup>1</sup> *Maryland*, Am. Commonwealth, 191.

<sup>2</sup> *Virginia*, Am. Commonwealth (Cooke), 332; *Old Churches, etc., of Virginia* (Bishop Meade), 16.

<sup>3</sup> *Hist. Am. Episcopal Church* (Bishop Perry), vol. I, 377.

When an English nobleman, it is said, asked a bishop why he conferred Holy Orders on such an arrant set of blockheads as some of those sent out to our colonies, he replied, "Because it was better to have the ground ploughed by asses than to leave it a waste full of thistles."

son for the provision is thus set out in the preamble in the act.<sup>1</sup> It recites : —

“And whereas it may often happen that a rector or minister may be chosen pursuant to the Act . . . of whose qualifications or dispositions the inhabitants may have but small acquaintance or may be otherwise mistaken in the person, who may act contrary to what was expected of him at his election so that it is highly necessary to have a power lodged in some persons for the removing of all or any of the several rectors or ministers of the several parishes or to translate them from one parish to another as to them shall seem convenient, otherwise in case any immoral or imprudent clergyman should happen to be appointed rector or minister of any parish the people would be without any remedy against him, or in case there should arise such incurable prejudices, dissensions, animosities and implacable offences between such rector or minister and his people, that all reverence for and benefit by his ministry is utterly to be despaired of (although he is not guilty of more grosser or scandalous crimes) yet it may be very convenient to have him removed from being rector or minister of that parish to which he did belong, and where such dissensions and offences are arisen, otherwise great evils and inconveniences may ensue upon the same.”

With this recital of the occasion for the enactment, the clause provides : —

“. . . That the commissioners hereafter named or the major part of them shall have power where they think it convenient (upon the request and at the desire of any nine parishioners that do conform to and are of the religion of the Church of England and are persons of credit and reputation, together with the request of the major part of the vestry of the parish, signified under their hand and requesting the removal of their rector or minister of such parish) to cite such minister before them and to hear the complaints against such minister or rector allowing him reasonable time to make his defence and upon hearing of the same if the said commission or the major part of them shall think it convenient to remove such rector or minister, they are hereby authorized and empowered to do the same.”<sup>2</sup>

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 240.

<sup>2</sup> An attempt was made to establish a similar Board of Lay Commissioners in Maryland. An act for the purpose passed both Houses of the



Upon the passage of this act it was moved "that any member may have liberty to enter his dissent against a vote or proceedings made in this House." But, on the contrary, it was "Resolved that no member shall have leave to enter his dissent." It has been objected that the act was in the nature of an *ex post facto* law.<sup>1</sup> But no action was taken against Mr. Marston, under its provisions, for what had occurred previously to its passage. On the contrary, Dalcho says, it does not appear that these proceedings of the General Assembly had much influence upon Mr. Marston's conduct. He was again arraigned before the House of Commons, February 5, 1704-1705, for having spoken falsely to the prejudice of Major Charles Colleton, a member, and it was resolved that he had been guilty of high breach of privilege, and that his assertions were false and malicious. A motion was made, February 8, to bring in a bill to displace him "for his imprudent behaviour in general and his reflection on the honour and justice of this House since the last censure by the General Assembly." This motion was, however, lost, but another vote of censure passed. It was not until the next year, 1705, that Mr. Marston was arraigned before the Board of Lay Commissioners and deprived of his living.<sup>2</sup>

The act imposing a religious test was to operate on the members of the Assembly to be chosen; fortunately, there was no such objectionable feature in another important measure of this time upon the same subject, *i.e.* "*An act to regulate the manner of elections.*"<sup>3</sup> Until 1696 there had been no statutory provision regulating elections, except

Provincial Assembly in 1708. Anderson's *Hist. of the Colonial Ch.*, vol. III, 180.

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 220.

<sup>2</sup> Dalcho's *Ch. Hist.*, 62, 63.

<sup>3</sup> *Statutes of So. Ca.*, vol. II, 249.

those contained in the Fundamental Constitutions, which had never been in operation. During Ludwell's administration, an act upon the subject had been passed; but it had been disallowed by the Proprietors.<sup>1</sup> Elections had been hitherto conducted under the directions of the precepts of the Governor, in pursuance of the instructions of the Proprietors. Thus we have seen Sothell admitting the Huguenots to vote, and Archdale excluding them. Elections had, however, as has appeared, always been conducted by ballot.<sup>2</sup> The act of 1796 has not been preserved. We only know of it from the repealing clause of an act of 1704, which is the first upon the subject which has come down to us.<sup>3</sup> This was entitled "*An act to regulate the elections of members of the Assembly.*" This act, which, it will be observed, was one to *regulate* elections of members of the Assembly, recognizes the use of the ballot as the manner of elections existing at the time of its passage. It does not prescribe the use of ballots anew, but provides for their preservation from one day to another, during the continuance of the election. In the clause directing the sheriff to publish his precept, or writ, it is true, it is provided "and all voices or votes given before such publications are hereby declared void and of no force," and in that requiring the elections to be held in public, it is said "that no person whatsoever, hereby qualified to vote, shall, being absent from the place of election, give his voice or vote by proxy, letter or any other way whatsoever, but shall be present in person, or his voice to be taken for none."

It is manifest that voice and written vote, *i.e.* ballot, are used here synonymously; for one could not send his natural voice by proxy or letter, nor could his voice be taken

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), Appendix, 487.

<sup>2</sup> *Ante*, p. 198 *et seq.*

<sup>3</sup> *Statutes of So. Ca.*, vol. II, 130, 249.

for any if absent. That the term "voice" is used in this sense is made still more clear from the clause providing that the elections shall continue for two days, which prescribes that the Sheriff at "every adjournment shall seal up in a paper bag or box all the votes given in that day in the presence of and with the seals of two or more of each contending party and the same shall break open at the next meeting," etc. The phonograph had not been conceived at that time, and the paper bag or box would scarcely have retained during the night and emitted the voices when the seals were broken open the next morning.

The qualifications prescribed for a voter were that the person must be twenty-one years of age and own fifty acres of land, or the value of £10 in money, goods, chattels, or rents, and have resided in the precinct in which he offered to vote three months before the date of the writs of election, to which qualifications he was required to make oath. Elections were to continue for two days, and to be held in public. Carrying out the analogy to the House of Lords in England, no Proprietor or deputy of a Proprietor was allowed to vote. No alien born out of the allegiance of the Queen was qualified to be a member of the House.



## CHAPTER XIX

1704-1706

MR. ASH, who had been hurried off by the way of Virginia to avoid his being detained by the Governor, had arrived in England and applied at once to Lord Granville, the Palatine; but finding that his Lordship was entirely in the interest of the church party in Carolina, and despairing of obtaining from that source redress of the grievances of which he had come to complain, he drew up the representation and address of the Colleton members of the Assembly, from which so much has been quoted, and was superintending the printing of it, but died before it was completed.<sup>1</sup> The paper, though addressed to Lord Granville, was no doubt designed to reach higher authority than the Proprietors. Oldmixon admits that Mr. Ash may have represented things with too much partiality;<sup>2</sup> and Archdale says that he was not a person suitably qualified for his mission, not that he wanted wit, but temper.<sup>3</sup>

Upon Mr. Ash's death Mr. Joseph Boone was sent. Mr. Boone, upon his arrival in England, found that he had not left behind him in Carolina the excitement and passions engendered by the religious controversy which distracted the province. He had, indeed, but come to its source, and found it raging in England with greater violence

<sup>1</sup> *British Empire in Am.*, vol. I, 482.

<sup>2</sup> *Ibid.*, 483.

<sup>3</sup> Carroll's *Coll.*, vol. II, 112.

than at home. It so happened that contemporaneously with the passage of the church act in Carolina (November 4, 1704), of which he had come to complain, the Tory House of Commons in England had been making another vigorous effort to enact the "Occasional Conformity Bill." Parliament had met on October 29, and notwithstanding all the efforts of the ministry to induce the leading men of the High Church party to restrain their zeal till they might have an opportunity of gratifying it without embarrassing the public business, the measure was at once again introduced, and passed to a second reading. At this stage, well aware that it would be rejected by the House of Lords, upon its own merits, as it had been twice already, it was tacked to a tax bill, so that the Lords would be obliged to reject the tax bill as well as the Occasional Conformity bill, or to pass the one with the other; it being a fundamental principle that the Lords could not alter a money bill, but must adopt or reject it as it was sent to them. Connecting this church matter with a supply bill necessarily involved Marlborough's operations, and it would, it was said, give the French King almost as great an advantage as Marlborough had gained over him a few months before at Blenheim. On the other hand, it was wittily said that the supplies were offered as a portion annexed to the church as in a marriage, and they did not doubt but that the court would exert itself to secure its passage when it was accompanied with two millions as its price. The bill passed the Commons on the 5th of December after a long debate, and was sent to the House of Lords. But the House of Lords would not be intimidated; on the 14th of December the supply bill with its tack was rejected.<sup>1</sup>

This, the first Parliament of Queen Anne, was about to

<sup>1</sup> *Parl. Hist.*, vol. VI, 359-368.

expire by the limitation of the biennial act. A proclamation was accordingly issued on April 5, 1705, for dissolving it, and on the 23d another was published calling a new Parliament. It was during the excitement of the election for the new Commons that Mr. Boone arrived in England. Before we take leave of this Parliament, however, it is most interesting to observe that another subject of debate in Carolina had also been before that body. Among the bills which fell with the session, though not actually rejected, was one offered for the naturalization of some hundred Frenchmen, to which the Commons added a clause disabling the persons so naturalized from voting in elections of Parliament. This was done, though it was observed that these people in England gave in all elections their votes for those who were most zealous against France. The Commons, nevertheless, did not believe that they could be so impartial to the interests of their native country as to be trusted with a share in the government of England.<sup>1</sup>

The elections of the members of the House of Commons was conducted with the greatest zeal on both sides. The clergy took pains to infuse into all minds the great dangers to which the church was exposed. The universities were inflamed with the same idea, and took all possible means to spread it over the nation. The danger to the Church of England grew to be the watchword as in an army. Men were known as they answered it. Books were written and distributed with great industry to impress upon all people the apprehension that the church was to be given up, that the bishops were betraying it, and that the court would sell it to the dissenters. A memorial of the Church of England, written by some zealous churchman, was printed and spread abroad, setting forth

<sup>1</sup> *Parl. Hist.*, vol. VI, 337.



her melancholy situation and distress. The dissenters, on the other hand, who had formerly been much divided, were now entirely united, and joined with the Whigs everywhere.<sup>1</sup> It was in the midst of this excitement that Mr. Boone appeared upon the scene in the interests of the dissenters of South Carolina.

Mr. Boone was a merchant trading with London, and there he induced the principal merchants in the Carolina trade to join him in a second representation of the dissenters' case. He also applied to Lord Granville, the Palatine, to be heard by the Proprietors. But, as we have already seen, it was no easy matter to get a meeting of that body even in quiet times to transact the ordinary and necessary business of the colony. It was still more difficult to do so at this time of political turmoil, especially when the purpose of the meeting was to hear a protest against a measure which was warmly approved, if it had not been actually suggested, by the Palatine himself. It was seven weeks before he could succeed in having a meeting called.<sup>2</sup>

The Proprietors at this time were: John Lord Granville, Palatine; William Lord Craven; John Lord Carteret (then a minor); Maurice Ashley, representing his brother, the Earl of Shaftesbury; Sir John Colleton; Joseph Blake (a minor); Nicholas Trott of London, and John Archdale.<sup>3</sup>

When at last a meeting was obtained, Mr. Archdale, we are told, opposed the ratification of the bill against the dissenters with such solid reasons that it is amazing to find the Palatine so shortly answering them.<sup>4</sup> Mr. Archdale soon after wrote an account of the province, in which

<sup>1</sup> *Parl. Hist.*, vol. VI, 442.

<sup>2</sup> *British Empire in Am.*, vol. I, 486.

<sup>3</sup> Carroll's *Coll.*, vol. II, 115.

<sup>4</sup> *British Empire in Am.*, vol. I, 486.

he treats mainly of this controversy; but his style is so loose and rambling that it is difficult to extract from it the reasons, solid or otherwise, he urged upon the occasion.<sup>1</sup> But whatever they were, Lord Granville replied to him very curtly: "Sir, you are of one opinion, I am of another, and our lives may not be long enough to end the controversy. I am for the bill, and this is the party I will hear and countenance." Mr. Boone then asked that he might be heard by counsel. To this Lord Granville replied: "What business has counsel here? It is a prudential act in me, and I will do as I see fit. I see no harm at all in this bill and I am resolved to pass it."<sup>2</sup>

The acts were approved by Lord Granville for himself, and for the minor Lord John Carteret, Lord William Craven, and Sir John Colleton. Joseph Blake was a minor in Carolina. It is not known what part Maurice Ashley or Nicholas Trott of London took in the discussion; or even that they were present. The Proprietors, approving the acts, wrote to Sir Nathaniel Johnson: "Sir the great and pious work which you have gone through, with such unwearied and steady zeal, for the honor and worship of Almighty God, we have also finally perfected on our part; and our ratification of that act for erecting churches, &c together with duplicates of all other dispatches, we have forwarded to you" etc.<sup>3</sup>

The Tories in England had outwitted themselves and overstrained their power in their futile efforts to tack the measure against the "occasional conformity" of the dissenters upon the supply bill. Devoted to the church as were the people generally, they were at this time peculiarly jealous of the honor of the country, and zealous in

<sup>1</sup> Carroll's *Coll.*, vol. II, 114.

<sup>2</sup> *British Empire in Am.*, vol. I, 481.

<sup>3</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 170.

the support of the war. They resented the spirit which would have dimmed the lustre of Blenheim in order merely to maintain power. The odium of indifference to the glories of Marlborough and the army in Germany was too heavy a burden for the Tories to bear. The result of the election was a large majority in favor of the war, and a coalition between the moderate men of both parties. The High Church party had lost its power; but the people were still sensitive upon the subject of the safety of the church. The danger of the church was the subject of a great debate in both Houses of the new Parliament and of a proclamation by the Queen. It was resolved by the House of Lords that the church was in no danger, and so her Majesty proclaimed, but among the dissentients to the resolution was Dr. Compton, Bishop of London; and one of the dangers his Lordship declared was "the want of a law to prevent any person whatsoever from holding offices of trust and authority both in church and state who are not constantly of the communion of the church established by law."<sup>1</sup>

In this condition of public opinion in England, Mr. Boone, the representative of the dissenters, himself a rigid one, not content with the cause of his own people, assumed also the championship of the church in Carolina, and particularly of Mr. Marston, as against that of the Governor, Council, and Commons of South Carolina. Early in 1706, he presented a memorial in behalf of himself and many other inhabitants of the province of Carolina, and also of several merchants of London trading to Carolina, to the House of Lords, which was still the stronghold of the Whigs.<sup>2</sup> The memorial set forth:—

<sup>1</sup> *Parl. Hist.*, vol. VI, 479-507.

<sup>2</sup> *Dalcho's Ch. Hist.*, 64; *Colonial Records of No. Ca.*, vol. I, 637.



“That when the Province of Carolina was granted to the Proprietors, for the better peopling of it, express provision was made in the charter for a toleration and indulgence of all christians in the free exercise of their religion; that in the Fundamental Constitutions agreed to be the form of government by the Proprietors, there was also express provision made, that no person should be disturbed for any speculative opinion in religion, and that no person should on account of religion be excluded from being a member of the General Assembly or from any other office in the civil administration. That the said charter being given soon after the happy restoration of King Charles II and reëstablishment of the Church of England by the Act of Uniformity, many of the subjects of the Kingdom who were so unhappy as to have some scruples about conforming to the rites of the said Church, did transplant themselves and families into Carolina; by means whereof the greatest part of the inhabitants there, were Protestant Dissenters from the Church of England, and through the equality and freedom of the said Fundamental Constitutions, all the inhabitants of the colony lived in peace, and even the Ministers of the Church of England had support from the Protestant Dissenters, and the number of inhabitants and the trade of the colony daily increased to the great improvement of her Majesty’s customs, and the manifest advantage of the merchants and manufacturers of the kingdom.

“But that in the year 1703 when a new Assembly was to be chosen, which by the constitution, is chosen once in two years, the election was managed with very great partiality and injustice, and all sorts of people, even aliens, Jews, servants common sailors and negroes were admitted to vote at elections; That in the said Assembly an act was passed to incapacitate every person from being a member of any General Assembly that should be chosen for the time to come, unless he had taken the Sacrament of the Lord’s supper according to the rites of the Church of England; whereby all Protestant Dissenters are made incapable of being in the said Assembly; and yet by the same act all persons who shall take an Oath that they have not received the sacrament in any Dissenting Congregation for one year past, though they have not received it in the Church of England, are made capable of sitting in the said Assembly; That this act was passed in an illegal manner, by the Governor calling the Assembly to meet on the 25th of April, when it then stood prorogued to the 10th of May following: That it hath been ratified by the Lords Proprietors in England who refused to hear what could be offered against it, and contrary to the petition of 170 of the chief inhabitants of the

Colony, and of several eminent merchants trading hither, though the Commons of the same Assembly quickly after passed another bill to repeal it, which the upper House rejected; and the Governor dissolved the House.

“That the Ecclesiastical government of the colony is under the Bishop of London; but the Governor and his adherents have at last done what the latter often threatened to do, totally abolished it: for the same Assembly have passed an act whereby twenty lay persons therein named are made a corporation for the exercise of several exorbitant powers to the great injury and oppression of the people in general and for the exercise of all ecclesiastical jurisdiction, with absolute power to deprive any Minister of the Church of England of his benefice, not only for immorality, but even for imprudence or incurable prejudices between such minister and his parish; and the only Minister of the church established in the Colony, Mr. Edward Marston, hath already been cited before their Board, which the inhabitants of the province take to be an high ecclesiastical commission-court destructive to the very being and essence of the church of England, and to be held in the utmost detestation and abhorrence by every man that is not an enemy to our constitution in Church and State.

“That the said grievances daily increasing your petitioner Joseph Boone is now sent by many principal inhabitants and traders of the Colony, to represent the languishing and dangerous situation of it to the Lords Proprietors; but his application to them has hitherto had no effect: That the ruin of the colony would be to the great disadvantage of the trade of the kingdom, to the apparent prejudice of her Majesty’s customs, and the great benefit of the French who watch all opportunities to improve their own settlements in those parts of America.”

None can be found at this day to approve the sacramental test proposed in Carolina for the qualification of electors, or the attempted prohibition of occasional conformity in England. But this memorial is certainly a curious document to have been presented by a Puritan, a Roundhead, and follower of the Blakes, in behalf of those who had left England because of the Stuarts and the reestablishment of the church there. If Mr. Boone and those whom he represented could truthfully invoke “the happy res-



toration of King Charles II," and express their satisfaction "at the reëstablishment of the Church," why had they left England because of "their scruples about conforming to its rites"? Did they really rejoice at the overthrow of the Commonwealth and the restoration of the Royal family? Could they candidly appeal to the equality and freedom of the Fundamental Constitutions, which explicitly established the church? It was not true that the charter prescribed a toleration and indulgence of all Christians. What it did, as already pointed out, was to give authority to the Proprietors to grant such indulgences and dispensations as in their judgment were fit and reasonable. To such persons as the Proprietors should thus indulge, leave was given freely and quietly to enjoy their consciences in matters of religion, "they behaving themselves peacefully and not using their liberty to licentiousness or to the disturbance of others."<sup>1</sup> But this indulgence which the Proprietors were authorized to allow did not by any means necessarily carry with it the right to vote at elections or participate in the government. The elective franchise was not then, nor indeed is it to-day, regarded in England as an inherent right of citizenship, necessarily accompanying liberty of conscience in religious matters.

But still more singular is it that Mr. Boone and his co-petitioners — dissenters all — should have assumed the defence of the church as well as the carriage of their own burdens of discontent, and have undertaken to maintain the ecclesiastical jurisdiction of the Bishop of London over the colonies in America, and to resent the incorporation of the Lay Board and its powers. This last, indeed, is the most remarkable of all the strange features of the paper, considering its source. Mr. Boone and his people

<sup>1</sup> *Ante*, Chap. III.



in Carolina were Congregationalists, or Independents, the very essence of whose doctrine was the repudiation "of the authority of pope, prelate, presbytery, prince, or Parliament," and antagonism to the Episcopal authority of the Church of England. Surely, it might have been supposed that such religionists would have hailed the assertion of the authority of the laity of the Church of England in Carolina to free themselves from unworthy or unfit clergymen as a vindication to that extent of their own church polity, — from whence, indeed, it was doubtless derived. But, on the contrary, we find this document resenting the interference of the laity with Episcopal authority, and declaring that the inhabitants of the province, including, of course, the Independents themselves, take this board "to be an high ecclesiastical commission-court destructive to the very being and essence of the church of England, and to be held in the utmost detestation and abhorrence by every man, that is not an enemy to our constitution in Church and State."

The insincerity of the memorialists is obvious. It was quite on a par with that of the churchmen, who, while prescribing that no dissenter should vote who did not submit himself to conformity with the church, evidenced by communing at its altars, provided a saving clause, exempting themselves from a compliance with their own requirements. In the one case, as in the other, religion was made the stalking-horse of political power.

But the Whig House of Lords, to which Mr. Boone now appealed, self-righteously indignant at the attempt of the churchmen in Carolina to follow the example of the Tories in England to weaken their influence by excluding nonconformists from the voting power, overlooked the incongruity of the petitioners and their petition, and hastened at the close of the session, which the

establishment of the union with Scotland now rendered necessary, to espouse their cause. On the 12th of March, 1706, their Lordships voted an address to the Queen upon the subject. In this address it is declared:<sup>1</sup> —

First, that it was the opinion of the House that the act of the Assembly of Carolina, for the establishment of religious worship, “so far forth as the same relates to the establishment of a Commission for the displacing of Rectors or Ministers of the Churches there, is not warranted by the Charter granted to the Proprietors of that Colony, as being not consonant to Reason, repugnant to the Laws of this Realm, and destructive to the constitution of the Church of England.”

Secondly, that it was the opinion of the House that the act requiring all persons chosen members of the Commons House of Assembly to conform to the religious worship of the province, and to receive the sacrament of the Lord’s Supper according to the rites of the Church of England “is founded upon falsity in matter of fact, is repugnant to the Laws of England, contrary to the Charter granted by the Proprietors of that Colony, is an encouragement to Atheism and Irreligion, destructive to trade, and tends to the depopulating and ruining of the Province.”

Whereupon their Lordships prayed her Majesty to deliver the province from the arbitrary oppressions under which it now lies; and to order the author to be prosecuted according to law. They also represented to her Majesty how much the powers given by the Crown have been abused by some of her subjects; but justice required them, they said, to inform her Majesty that some of the Proprietors had refused to join in the ratification of these acts. They also informed her Majesty that other great injustices and oppressions were complained of which it was

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 634; Dalcho’s *Ch. Hist.*, 66.

not possible for the House, so near the conclusion of the session, to find time to examine, and therefore presumed to lay the petition itself before her; and could not doubt but that her Majesty, who had shown so great a concern and tenderness for all her subjects, would extend her compassion to her distressed people who had the misfortune to be at so great a distance from her Royal person, and not so immediately under her gentle administration.

The Queen thanked the House for laying these matters so plainly before her, expressed herself as very sensible of the great consequence the plantations were to England, and promised that she would do all in her power to relieve her subjects in Carolina and protect their rights.

On the 3d of April Sir Charles Hedges, one of the Secretaries of State, a favorite of the Queen, whom the Duchess of Marlborough was now pushing out of the way for her son-in-law Sunderland, wrote to the Board of Trade referring the address of the Lords to that body, and desiring its opinion as to the method proper to be taken for the relief of her Majesty's subjects. The board, which, as we have seen, was ever on the alert to find some cause for the forfeitures of colonial charters, readily undertook the business and referred the papers to the two law officers of the Crown, the Attorney General, Sir Edward Northey, and the Solicitor General, Sir Simon Harcourt, for their opinion.<sup>1</sup> These law officers, on the 17th of May, gave it as their opinion that the acts in question, not being consonant to reason, and being repugnant to the laws of England, were not warranted by the char-

<sup>1</sup> Lord Campbell, writing of the changes in the cabinet upon the result of the election of 1705, says: "Northey the Attorney General was considered quite unequal to the post even if there had been no objection to his politics. . . . Harcourt the Solicitor General was a man of great talents and of high honor." — *Lives of the Lord Chancellors*, vol. V, 166.



ter and were made without sufficient authority from the Crown, and therefore did not bind the inhabitants of the colony; that her Majesty might therefore lawfully declare those laws null and void and require the Proprietors and Assembly of the province to abrogate them. They were further of the opinion that the making of such a law was an abuse of the power granted the Proprietors and effected a forfeiture. They were of opinion that her Majesty might proceed by *scire facias* in chancery on the patents, or by *quo warranto* in the Queen's Bench, "if," they were careful to add, "the laws were approved and confirmed by the present proprietors which doth not fully appear to have been so by the said address." This, as we shall see, proved to be an embarrassing point. On the 10th of June her Majesty, in council, directed Mr. Attorney and Mr. Solicitor General to inform themselves more fully upon what was necessary for the effectual proceeding against the charter by *quo warranto*. On the 13th an order of council was made directing the Lords Proprietors to declare the objectionable acts null and void.

So far all had gone well with the petitioners, and the Board of Trade had reason to hope that the charters against which they had so long and so earnestly been contending would now be annulled. But just here two curious obstacles appeared to save the Proprietors' rights. The first was intimated by the law officers in the closing sentence of their opinion. It so happened that the acts had been nominally approved by but four of the Proprietors, of whom one, indeed, was a minor. These were Tories. Of the other Proprietors Archdale had protested against the laws. Shaftesbury was in ill health and in retirement, and neither his brother Maurice Ashley, who represented him, nor Blake, who was a minor, had had any part in the enactment of these measures. Were these innocent parties,

some of whom were Whigs, to be punished for the conduct of the Tory Lords Granville and Craven and Sir John Colleton? Were the minors Carteret and Blake and the invalid Shaftesbury to suffer for the conduct of others in which they had no part? But not only so: as the law officers, under the orders of her Majesty in council, looked into the matter more fully, they began to doubt whether they could deal with the only parties who were responsible for the objectionable measures; for these were peers of the realm, and though the Whig House of Lords had in the rush of business at the close of a session let the address to her Majesty pass, it might possibly not be safe to take them too seriously at their word, and to do a thing which might affect the privileges of their order.

Under the order of the 10th of June, the Attorney and Solicitor Generals reported to a Council held on the 26th that, though they had not sufficient material to carry on the prosecution to an end, they had sufficient to exhibit informations, and were preparing the same; but at the same time they suggested to the Council whether the filing such informations against a peer in Parliament might not be thought a breach of the privileges of the peerage. This view struck the Council, and her Majesty having taken it into consideration, the Council quickly changed their course and came to the conclusion that the House of Peers were the best judges of their own privileges; upon which her Majesty did not think fit to give any further directions, and the whole matter was dropped.<sup>1</sup>

Upon the passage of the Church act establishing the five new parishes, Governor Johnson and his Council had empowered Mr. Thomas, who was returning to England on private affairs, "to make choice of five such persons as he should think fit, learned, pious, and laborious minis-

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, 640, 644; Dalcho's *Ch. Hist.*, 69.

ters of the church to officiate in the vacant parishes." In doing this Mr. Thomas consulted the Society for the Propagation of the Gospel, and submitted what the society pronounced to be "a very full and satisfactory account of the state of the church in South Carolina." But he drew attention to the objectionable clause of the act establishing the church which placed in the hands of lay commissioners the power of removing the clergy. The society referred the matter to the Archbishop of Canterbury and the Bishop of London, and determined to "put a stop to the sending ministers . . . into those parts till . . . fully satisfied that the . . . clauses are or shall be rescinded, and that the matter put into an ecclesiastical method." When, however, afterward Governor Johnson and his Council explained that the provision had been "made to get rid of the incendiaries, and pest of the church, Mr. Marston," and that had the society known the facts of the case, it would not have blamed them "for taking that or any other way to get rid of him," and that Mr. Boone, who in this matter was apparently so zealously championing the cause of the church, was "a most rigid dissenter," who, while pretending to defend the rights of the clergy, was really endeavoring to defeat the act, "because it established the church . . . and settled a maintenance on the ministers," they were evidently satisfied; for they sent back with Mr. Thomas, in 1705, Mr. Thomas Hasell in the same year, and Mr. Francis Le Jau in 1706, before the act was repealed.<sup>1</sup>

Of these measures, which caused so much contention and discussion both at home and in England, the first, that requiring conformity with the Church of England on the part of the electors of the Commons, was a measure originating in the politics of the mother country, but readily

<sup>1</sup> *Digest Soc. Prop. Gospel Records*, 13, 14, 849; *Dalcho's Ch. Hist.*, 69.



adopted by the churchmen in Carolina, to wrest and secure the control of the province from the dissenters. During the last fifteen years there is little doubt but that the dissenters had been a majority in the colony, and were the richest and soberest amongst them. From the arrival of Blake, Morton, Axtell, and their followers they had governed the colony; and it was with chagrin that they saw the new arrivals from England and the West Indies joining with the Huguenots to supersede their rule. Hence the bitter opposition to these people, whom, though like themselves exiles for religion's sake, they were contumeliously classing with negroes and the lowest of the whites. There is no evidence that the dissenters now constituted two-thirds of the population as asserted by Mr. Marston.<sup>1</sup> On the contrary, as we have seen, those who conformed to the Church of England constituted very nearly one-half of the population; and it is not to be assumed that all the non-conformists were united, differing as they did amongst each other. The very vehemence of their opposition to the French Protestants is a persuasive argument that they recognized that the pending union between the churchmen and Huguenots would constitute a governing majority of the colony.

The attempt of the churchmen to secure their supremacy by the exclusion of the dissenters, under the test of conformity to the church, was unwise, impolitic, and improper. But in the end it proved to be a matter of political ethics, not of constitutional right. The weak opinion of the Attorney General and Solicitor General clearly exhibits this. They rest their objection to the measure upon the clause of the charter requiring the laws of the province to be as near as may be to those of England,—an elastic provision, capable of indefinite contraction or expansion

<sup>1</sup> *British Empire in Am.*, vol. I, 486.

as the purposes of party might require. They find that the provision of the law of Carolina, accomplishing the purpose in this province,—the same that the Commons had again and again attempted at home, to be so contrary to the laws of England as to be in violation of the provision of the charter. And yet, at this very time, Chief Justice Holt, while holding that slavery was so abhorrent to the laws of England that every slave was made free upon touching her soil, was upholding the slave trade in the interests of the merchants of London, and declaring negro slaves merchandise under the navigation acts, and salable and recoverable property in the colonies.<sup>1</sup> If Attorney General Northey and Solicitor General Harcourt were right, that the adoption by a colony of a measure which had been overwhelmingly and repeatedly approved by the Commons in Parliament was such a departure from the law of England as to be a violation of its charter, what was to be said of the courts of England, then and afterwards, upholding, in regard to slavery, one law for the colonies and another for the mother country? It is not improbable that the law officers of the Crown began to perceive some of these difficulties, and were glad to abandon the controversy under the plea of the privilege of the peers.

The other measure was more of a local one,—one fully justified by the condition of the church in the colonies; nor was it, as declared by the address of the Lords in extravagant language, in violation of the constitution of the Church of England. Deprivation and degradation are two very different matters in all ecclesiastical laws. The latter can only be imposed by an ecclesiastical court. The former must depend upon the law of the benefice or “living,” as a matter of property. The lay commission had no power to suspend, deprive, or depose a clergyman from

<sup>1</sup> Salkeld's *Reports*, 666 ; Bancroft, vol. II, 279 (ed. 1883).

his sacred function ; but, as representing the body which furnished the means of living, it was authorized to inquire into cases of unworthiness of the support it provided. In the absence of a bishop or any other ecclesiastical authority, the act provided a board to hear and decide differences between congregations and their rectors. In England, proceedings of deprivation were generally had in the ecclesiastical courts, but these were always subject to the courts of common law which regulated them, and sentences were pronounced by the bishop with the assistance of his chancellor and dean, if their presence might be conveniently had. The general rule no doubt was that there could be no deprivation without precedent ecclesiastical sentence. But the rule was by no means universal. There were divers statutory offences, some of nonfeasance or neglect as well as others for malfeasance, and crimes such as failure to read the liturgy and articles and to make declarations against popery, improper absence, simony, etc., which needed no ecclesiastical sentence, but which *ipso facto* worked deprivation and loss of benefice.<sup>1</sup>

The Bishop of London's jurisdiction in the colonies was at this time questioned, as we have seen ; and justly so, as it was ultimately held by the Privy Council in England.<sup>2</sup> In Jamaica, where it was barred by statute, the Governor, as head of the provincial church, as the representative of the King of England, not only inducted clergymen into their rectories, but was likewise vested with the power of suspending clergymen for lewd and disorderly lives upon application of ten parishioners.<sup>3</sup> The

<sup>1</sup> Burns's *Ecclesiastical Law*, vol. II, 126 ; Dwyer's *Reports*, 275 ; Jacob's *Law Dic.* Title, *Deprivation*.

<sup>2</sup> *N. Y. Col. Doc.*, vol. VII, 363.

<sup>3</sup> *Hist. West Indies* (Bryan Edwards), vol. I, 208, 348.

In Virginia the Governors Effingham, Nicholson, and Spottswood



Carolina act gave this power to the lay commissions instead of to the Governor. Was it not proper, there being no bishop in Carolina, that where the General Assembly was taxing this people to support and maintain the clergy, providing them with parsonages, glebe lands, and negroes to work the glebe lands, all at the expense of the public, some court should be provided to hear complaints against rectors or ministers of the several parishes, and to remove or translate them for good cause? The Governor in Jamaica could remove upon the application of ten parishioners; under the Carolina act the application must be made by nine under the sanction of the vestry, an additional safeguard to the clergy. Was Mr. Marston to be allowed to meddle with this affair of the government, assail its members from the pulpit, comparing them to Korah and his rebellious brethren, and the people have no power to remove him? Would not any vestry to-day sever the connection between their rector and their church for causes mentioned in the act? Do they not do so habitually? The act in question, in fact, provided a protection to the clergyman, in that it would not allow him to be displaced, as he is practically to-day by the vestry, whenever differences arise between the congregation and himself. Dr. Dalcho, while maintaining that Mr. Marston was removed by a power having no canonical jurisdiction in ecclesiastical affairs, admits that "he owed his removal to his imprudent and litigious disposition."

claimed to be the representatives of the King in Church and State, and patrons of all the parishes, also to be the representatives of the Bishop of London, having the disposal of the ministers and the exercise of discipline over the clergy, thus making the office of the commissary a nullity. *Old Churches and Families in Virginia* (Bishop Meade), vol. I, 150.

In Maryland the right of induction and presentation were both centred in the Governor alone. The commissary could only remonstrate. Anderson's *History of the Colonial Church*, vol. III, 178.

But if the Carolina act was so obnoxious to the constitution of the Church of England as to be ground for a forfeiture of its charter, why was not that of Jamaica to be forfeited as well? The opinion of the law officer of the Crown could not have been sustained before the courts in either of the cases. It was well for the government that so convenient an excuse for dropping the case was so easily found.

The Queen had ordered the Proprietors to have these measures repealed. Her Majesty's power to do so might well have been questioned. But while the Proprietors, divided among themselves into two as distinct parties as the colonists themselves, had now escaped a threatened forfeiture of their charter, they recognized the danger of the continued hostile attitude of the Board of Trade and were well content to come out of the difficulty without further controversy. Instructions were sent for the repeal of the measures in question. And indeed it was time that this should have been done, for the Assembly in Carolina had already given way in response to the defeat of the Tories in England.

The act requiring conformity to the church as a qualification of election had been passed, it will be recollected, by a majority of only one in a House from which several members were absent. In a full House some time after a bill had been carried for its repeal, but was lost in the Upper House, and Governor Johnson had, it is said, "in great indignation dissolved the Commons House by the name of the Unsteady Assembly."<sup>1</sup> In the election for the new Assembly Oldmixon states that Craven and Berkeley counties were so straitened by the qualifying act that they had not twenty men to represent them unless they would choose a dissenter or one unfit for the position.

<sup>1</sup> *British Empire in Am.*, vol. I, 486.

Several persons were admitted as representatives from Colleton County in the place of those who refused to qualify, under a provision of the act, which upon the whole was perhaps its worst feature, providing that in such cases the candidate having the next greatest number of votes should be entitled to the seat. John Ash, the son of the dissenters' first agent to England, qualified himself by taking the oaths and signing their declaration, but was not apparently otherwise a complaisant member. He was soon called upon to answer for words spoken in derogation of the House.<sup>1</sup>

Upon the opening of the General Assembly on the 6th of March, 1706, Governor Johnson sent in a message. As to the clause in the Church act relating to the twenty commissioners, he said, the members were aware, by the printed votes of the House of Lords and their address to her Majesty, what offence it had given. In order, therefore, to give full satisfaction to the Lords, the bishops, and the Society for Propagating the Gospel, who were offended by it, and in order to settle the church in the province by an act that might not be disturbed in England, he proposed to repeal all the several acts upon the subject and then to pass one general act establishing the church without the clause giving a power to remove the clergy. All knew, he said, that the passing of that clause was to get rid of that pest of the country, Mr. Marston, who had been a common incendiary in the province, and had been the cause of differences and animosities between himself and the parishioners of St. Philip's, and that, if suffered to remain, the people generally would forsake the church. He recommended, therefore, that there should be a clause in the new act disabling Mr. Marston from being minister in Charles Town. He thought that

<sup>1</sup> MSS. *Journals*.



one church was not sufficient for Colleton County and recommended the establishment of another parish within its limits. As the main end of the act against dissenters, he said, was to enable the Assembly to establish the Church of England, so when the act he proposed was passed he recommended the repeal of that against the dissenters. "I do now propose to you," he concluded, "that upon the passing of the act for the security of the church as before proposed, I shall be ready to join you in the repealing of the act against the dissenters sitting in the Assembly."<sup>1</sup>

The Assembly did not act immediately upon the message of the Governor, but took up other business, and passed another measure, which the dissenters declared to be merely for the perpetuation of the church party's power, and not because of the reasons assigned for its enactment. This act provided for the continuance of the present Assembly for the term of two years after its ratification, during the life and continuance in office of the present Governor, and that it should not be dissolved by any power or person whatsoever within that time, except by the Governor and Council that then were. It was to continue likewise for eighteen months after the end of the administration of the present Governor by death or removal. The reason assigned for its passage was the danger of another invasion by the French and Spaniards, which might render an election inconvenient and inexpedient, or leave the province without a duly organized House; and also — which, indeed, was no doubt its real motive — because the preservation of the Church of England so happily begun might be endangered, if not wholly subverted and overthrown, upon the election of another House. This attempt to prevent the exercise of the popular will was as futile as it was unwise; and, as we shall see, was disre-

<sup>1</sup> MSS. *Journals Commons.*

garded by the Governor and Council themselves, though they now approved the measure.<sup>1</sup>

On the 30th of November, 1706, in pursuance of Governor Johnson's recommendation, all acts relating to the church were repealed<sup>2</sup> and another general act upon the subject passed on the same day. The act of 1704 had provided for the building of six churches, but had not laid out or defined the limits of the parishes. By this act the province was divided into ten defined parishes. The neck of land between Cooper and Ashley rivers was made into a distinct parish, to be called the parish of St. Philip's in Charles Town. The rest of Berkeley County was divided into six more parishes: one upon the southeast of Wando River, to be called the parish of Christ Church; one upon the neck of land between Wando and Cooper rivers, to be called by the name of St. Thomas's; one upon the western branch of Cooper, to be called by the name of St. John's; one upon Goose Creek, to be called by the name of St. James's, Goose Creek; one upon the Ashley, to be called by the name of St. Andrew's; one in Orange Quarter, for the use of the French settlement there, to be called by the name of the parish of St. Dennis. Colleton County was divided into two parishes: one on the south side of the Stono River, to extend to the north side of South Edisto, to be called by the name of St. Paul's, and the other on the north of St. Helen's to be called by the name of St. Bartholomew's. The Huguenots on the Santee had petitioned that their settlement be made a parish, and that their minister should have the same allowance as ministers of other parishes, and so that part of Craven County known as the French settlement on the Santee was made into a parish, and the church built in Jamestown in that settlement was declared to be the parish church of St. James's, Santee.

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 266.

<sup>2</sup> *Statutes of So. Ca.*, vol. II, 282.

The influence of the Barbadian element in the province is noticeable in the names of these parishes. The names of these and those afterwards established are almost identical with those of the parishes of Barbadoes.<sup>1</sup>

The act provided for the building of six churches and six houses for the rectors of the several parishes, and £2000, raised by the imposition of a tax on skins and furs, chief articles of commerce, was appropriated for the purpose. This was a very large sum of money, amounting possibly to \$40,000 of our present currency. Commissioners were appointed to take grants of land for the sites of the churches and churchyards and glebes, and for the houses for the rectors. Three of these were Huguenots.<sup>2</sup> The rectors were incorporated as in the act of 1704. The rector of St. Philip's was to receive £150 per annum; the several other rectors £50 each for three years and after three years £100, except the rector of St. Dennis, who was allowed £50 per annum. The rectors were to be chosen in the same manner as had been provided in the act of 1704, that is, by the inhabitants of the several parishes who were of the Church of England. The rector of St. Dennis, Orange Quarter, and of St. James's, Santee, were allowed to read the service in the French tongue according to a translation which had been approved by the Bishop of London. Orange Quarter was really a part of St. Thomas's

<sup>1</sup> The names of the parishes in Barbadoes were: St. Michael's, St. Peter's, St. Thomas's, St. John's, Christ Church, St. Lucy's, St. James's, St. Philip's, St. Andrew's, St. George's, St. Joseph's. *Hist. of Barbadoes* (Poyer), 116. *Hist. West Indies* (Bryan Edwards), vol. I, 321.

<sup>2</sup> The names of the commissioners were: Sir Nathaniel Johnson, Kn't, Hon. Thomas Broughton, Nicholas Trott, Robert Gibbes, Henry Noble, Ralph Izard, James Risbee, William Rhett, George Logan, Arthur Middleton, David Davis, Thomas Barton, *John Abraham Motte*, Robert Seabrook, Hugh Hicks, John Woodward, Joseph Page, John Ashly, Richard Beresford, Thomas Wilkinson, Jonathan Fitch, William Bull, *Rene Ravel*, and *Philip Gendron*. Those in italics were Huguenots.



Parish, but few of the inhabitants could attend the English Church, as they did not understand the English language, and most of them had been accustomed to meet together in a small church of their own; as they desired, however, to conform to the established church, upon their application they were incorporated into it.<sup>1</sup>

It was provided by this act that in each parish seven vestrymen and two churchwardens should be elected on Easter Monday in each year, who should be required to be sworn to the oaths of allegiance and supremacy and to subscribe the test against transubstantiation. They were required to serve under a penalty.

The essential benefits to the colony arising from this act, observes Rivers, cause us to regret the violent and illegal measures by which it originated. Pious and learned men could now be induced to come to Carolina, whenever their services were needed. Education and Protestant Christianity, he continues, are so blended that a country must be destitute of both, if it be long in want of either. The Society for the Propagation of the Gospel sent out missionaries not only to preach, but to "encourage the setting up of schools for the teaching of children."<sup>2</sup>

There is preserved in the Charleston Library a manuscript volume containing eight charges delivered by Chief Justice Trott to the General Sessions; one of these, delivered at this time, is upon the subject of witchcraft, and is a most learned and elaborate defence of the theory of the existence of witchcraft as a crime. While not actually asserting that every one that doubts the existence of witches must necessarily deny the existence of spirits, the Chief Justice makes bold to assert that they who have given good proof of apparitions and witches have done

<sup>1</sup> Humphrey's *Soc. Prop. Gospel*, 105; Dalcho's *Ch. Hist.*, 288.

<sup>2</sup> Dalcho's *Ch. Hist.*, 47-50; *Hist. Sketches of So. Ca.* (Rivers), 231.

some service to the cause of religion; for, he ingeniously argues, if there be such creatures as witches, then there are certainly spirits by whose aid and assistance they act, and by consequence there is another invisible world of spirits. "Now, though I am not at all inclined to believe," he charges the jury, "every common idle story of apparitions and witches neither should I have you to be over credulous in things of y<sup>e</sup> nature especially when they come before you in a judicial manner." He goes on to tell the jury "yet that there are such creatures as witches I make no doubt; neither do I think they can be denied without denying the truth of the Holy Scriptures or most grossly perverting them. Now," he says, "that the Holy Scriptures do affirm that there are witches is evident from so many places that might be produced out of them that time will not permit me to cite them to you." The Chief Justice then proceeds to examine and discuss before the jury passages of Scripture upon which he relies for his belief, and in doing this he quotes, and endeavors to explain to the jury, the original Hebrew text of the Old Testament upon the subject. The juries must have been very different in those days from the present had they been able to follow his Honor. We have no information that any action was taken upon this charge. Trott was not singular in his belief at the time. Indeed, he was but adding his classical learning to the charge of Sir Matthew Hale in the famous witchcraft trial at Bury St. Edmunds, thirty years before, in which that great judge declared his belief that there were such creatures; for, said he, the Scriptures have affirmed as much.<sup>1</sup> At the close of the seventeenth century belief in witchcraft was widespread, and it continued, to a greater or less degree, for a hundred years after. The fanatical outbreak at Salem,

<sup>1</sup> *State Trials*, vol. VI, 647-702.

Massachusetts, in 1691-92, is one of the most striking incidents in the history of New England.<sup>1</sup> The act of James I, c. 12, against witchcraft was one of the English Statutes which we shall soon see reënacted in this province, in 1712.<sup>2</sup> It is said that in 1792 witches abounded in what is now Fairfield County in this State, and as late as 1813 or 1814, Stephen D. Miller, later one of the most distinguished men of the State, gravely maintained the defence to an indictment of assault, battery, and false imprisonment that an old woman, the prosecutrix, residing in Chesterfield had maltreated by diabolical arts a poor girl residing in Lancaster, and had ridden her as a horse from town to town.<sup>3</sup>

The volume of manuscript charges of Chief Justice Trott concludes with one in which he sentences a woman to be burned under the provisions of the common law, which holds the murder of a husband by a wife to be petty treason, and therefore liable to that terrible punishment. We have, however, no record of the case nor account of the execution of the sentence. We may safely assume that the woman was not burned.

<sup>1</sup> *The Emancipation of Mass.* (Brooks Adams), 216-236.

<sup>2</sup> *Statutes*, vol. II, 508.

<sup>3</sup> See a most interesting note of Dr. Thomas Cooper, editor of the *Statutes at Large*, upon this subject. *Statutes*, vol. II, 739-743.



## CHAPTER XX

1706-1709

IF the Tories in England had lost their influence by their lukewarmness to the war, those in Carolina, under the lead of Sir Nathaniel Johnson, had redeemed the character of their party for loyalty and devotion to her Majesty the Queen, and to the cause of the mother country against all her enemies. Putting aside all party strife and daring, not only the united forces of the French and Spaniards, but the danger of pestilential disease, they had hastened with their fellow-colonists, in the double exposure of their lives, to the defence of the infected and beleaguered town. They may not yet have heard of Marlborough's glorious victory of Ramillies of the 23d of May; but they remembered Blenheim, and as far as the opportunity and occasion had allowed in this extreme outpost of the kingdom, had likewise performed their duty, and added some fresh laurels to the glory of England of the year 1706. They had done at least their duty — as if at Namur.

But great had been the calamities of the summer. The yellow fever had been most fatal. Five or six deaths a day among the small population of the town was not an uncommon occurrence. Among those who died were the restless and ambitious Colonel James Moore, the Rev. Samuel Thomas, who had just returned from England, where we have seen him in conference with the Society

for the Propagation of the Gospel, Mr. Job Howes, the Speaker of the Assembly which had passed the laws that had occasioned so much contention, and many other worthy persons of both parties. Some dissenters, not contented with the defeat of the measure which would have excluded them from the government, but objecting to the establishment of the church at all, had abandoned the colony.

The number of the inhabitants was, nevertheless, increasing, and though most of the dissenters acquiesced in the establishing of the church, they renewed the struggle for the political control of the colony, and soon regained their ascendancy in the Assembly.

During the distractions of the province and the confusion spread everywhere by the war with France and Spain, the traders among the Indians had carried matters with a high hand; their abuses now occasioned fresh trouble and alarm. Though Colonel Rhett had succeeded Howes as Speaker, the Governor's party lost control of the Commons, and the Assembly determined to remodel the whole plan of conducting the Indian trade. It was proposed to appoint commissioners with full power, executive and judicial, to settle without delay all difficulties in that business. The salary of the Governor was at that time £200 sterling; but this was augmented indirectly by allowances derived from the management of this trade. It was now proposed that the customary presents from the Indians, for which they expected special favors, should go into the public treasury, and an equivalent was offered to the Governor in lieu of these perquisites. Sir Nathaniel demurred to this as curtailing the only "considerable source of his income," and appealed to the Assembly; were not his services in the recent invasion "sufficient to excite their gratitude and liberality"? But the Assembly was obdurate. Instead of yielding, they sent a bill for his approval to prevent tu-

mults at elections, which he rejected as contrary to his instructions. Notwithstanding the act continuing the present Assembly for two years, approved by him so shortly before, the Governor thereupon dissolved the body.<sup>1</sup>

At the election for a new Assembly the party in opposition to the Governor gained complete ascendancy, and at once elected as Speaker Thomas Smith, whom the former House had had in custody because of the libel of his letters to Ash. Mr. Marston had been continuously importuning the Governor and Assembly for his salary, of which he had been deprived; and upon the accession to the speakership of his friend, Mr. Smith, for visiting whom while he was in the custody of the Messenger he had been arraigned by the House, Mr. Marston at once renewed his application for payment. The Governor complained that he was affronted "by his saucy letter" and rejected it. But the House heard Mr. Marston favorably, and, on the 30th of October, 1707, sent an address to the Governor and Council asking for their reasons "why Dr. Marston ought not to be paid according to the directions of the Church act." The Governor and Council replied, November 6, that they wondered that the Assembly should ask, "when you may see the reasons very plainly in the words of the ordinance, where, after reciting his offences, it is expressly said that no more money shall be paid him out of the public treasury until such time as by an ordinance of the General Assembly upon his amendment, better behavior, and submission to the government he be restored to the same." That so far from any amendment or submission, "he continued his abuses and railing constantly in his sermons, so that neither the Governor nor no one of those concerned in the government could go to church except they would

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 243.



be content to hear themselves abused; he having his abusive papers, ready penned into his sermon notes, to make use of when he saw any one concerned in the government come to church." In answer to the argument that Dr. Marston had officiated, they said that no one desired him to do so, and all would have been glad if he had left it alone; for it was his doing so drove them and others from the church. "And therefore," continued the Governor and Council, "we wonder to see you repeat your affronts to the Governor by siding with Mr. Marston by which we and every one may plainly see that a person need have no other qualification to entitle him to your favor but abusing the government." They concluded by assuring the Assembly: "We will never give consent that he shall have any money paid him out of the public treasury; neither will we spend any more time and pains in receiving or answering any more messages relating to him."<sup>1</sup>

Having failed to reinstate Mr. Marston, and disposed to be quarrelsome, the Assembly next turned upon the Governor's two friends, Colonel Rhett and Chief Justice Trott. They resolved that Rhett "should no longer be sole commissioner for the fortifications," and requested to be informed how Trott obtained his position as deputy in the Council. They had not, they said, been officially notified how Nicholas Trott, of London, had become Proprietor. Governor Johnson replied informing them that Clarendon's Proprietary share had been assigned to Sothell, and upon his death the Proprietors had assigned it to Amy, and that Amy had assigned it as a portion for his daughter upon her marriage with Nicholas Trott, of London, a cousin of the Chief Justice, whom he had appointed his deputy. The Commons were not satisfied.

<sup>1</sup> Dalcho's *Ch. Hist.*, 69-72.

Indeed, they had probably been instigated from London to raise this question. They desired proof that the other Proprietors had sanctioned the claim of Mr. Trott of London, and declared the Chief Justice "an unfit man for any public commission or office."<sup>1</sup>

Without consulting the Governor, and in manifest disrespect to him, the Assembly sent Mr. Berresford under their authority to the Savannah Indians. The Governor and Council resented this as an additional slight and interference with their prerogatives, as they alone had power to make peace or war. Pursuing the same hostile course, the House renewed the question as to their right to elect a Receiver of the public money. James Moore, the Receiver, had died the summer before, and the Assembly now claimed the right to elect his successor, as they had ineffectually attempted before on the death of Mr. Ely. If the Proprietors or other deputies, said they, claim to appoint this officer under the charter, they can as well claim to appoint the Speaker of the Assembly. Was it not strange, they asked, that the greater power of disposing of the public money was in the people, and the lesser power, incidental to it, of choosing the Receiver of the money, should be denied them? They proceeded to nominate Colonel George Logan for the office. The Governor objected, but the House persisted and unanimously elected him.<sup>2</sup>

The Board of Trade in England had eagerly listened to the mission of Mr. Boone as opening the way to a subversion of the Proprietors' charter and the establishment of an immediate Royal Government, and in so doing had given a new vent to the discontent with the Proprietors and their Governor and Council. The opposition

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 244.

<sup>2</sup> *Ibid.*, 245.

party, which had now the control of the Commons in South Carolina, at once availed themselves of this new opening to the ear of the Royal Government. They appointed a committee on grievances and sent their report to the Queen. They also prepared specific charges against Trott, and desired the Governor and Council to displace him from his office of Judge and asked that he be brought to trial before a court. "The whole body of the people," said they, "have such an aversion against him upon just grounds that they will neither hurry their actions nor serve as jurymen until he be either punished or legally cleared of what is laid against him." The Governor refused to remove Trott, as such an action on his part would be unprecedented and contrary to law. The House should impeach him before the Council. This the House refused to do; while Trott, on the other hand, declared that he could only be tried in England before the Proprietors from whom he held his commission.<sup>1</sup>

Had the condition of the province permitted it, Governor Johnson would long since have dissolved this refractory House of Representatives. But a threat of invasion by the Savannah Indians obliged him to reconvene them. Upon their assembling, he requested that, before proceeding to business, they would rescind from their journals the complaints against himself. To this request they answered they did not consider themselves legally convened, because Trott's name on the proclamation just completed a quorum of the Council, and they did not recognize him as a deputy. The inconsistency of this position is apparent; for, if not properly convened, they constituted no legal body to be sitting receiving and sending messages. But standing upon this point, it was with difficulty that the Assembly could be brought to the consideration of the

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 245.



exigencies of the province, and induced to enable the Governor to organize a force against the public enemies, and to raise money for its support.<sup>1</sup>

Thomas Smith, the present Speaker, had been arrested by the previous House, and taken into custody of the Messenger for libelling that body. The tables were now turned, and he was avenged. Colonel Risbee, a member of that House, the author of the bill against dissenters, was brought to the bar, before Smith as Speaker, on a charge of vilifying the present Assembly while over his bottle of wine in a tavern.<sup>2</sup>

The Governor saw that a compromise was necessary to allay the increasing excitement. Logan, having declined the office so that no personal objection to himself might embarrass the Assembly, the Governor yielded on his part, and approved an act which asserted the right of the House to elect the Receiver. The Assembly then agreed to allow the Governor £400 for relinquishing the Indian perquisites, besides £100 per annum, and at length sufficient harmony was restored for proceeding with enactments which the public interests demanded.<sup>3</sup>

At the next election the Governor's party regained their control. The new Assembly was organized with Colonel Risbee as Speaker. But changes had taken place in England which allowed his Excellency but a short enjoyment of his restored power. Lord Granville was dead, and was succeeded as Palatine by William Lord Craven;<sup>4</sup> the Board of Proprietors was reorganized, and turned against him.

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 246; *Statutes of So. Ca.*, vol. II, 320-324.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 246.

<sup>3</sup> *Ibid.*, 246; *Statutes of So. Ca.*, vol. II, 305-311.

<sup>4</sup> *Coll. Hist. Soc of So. Ca.*, vol. I, 153.

The board, as now composed, consisted of William Lord Craven, who represented also the minor Lord Carteret, Sir John Colleton, Maurice Ashley, who represented also the minor Joseph Blake, and John Archdale. The share of the late Lord Granville was not represented, and Trott (who claimed not only the Clarendon-Sothell share, but that also originally of Sir William Berkeley, which Archdale was now admitted to represent) was not recognized at all by the other Proprietors. The board thus constituted was reduced practically to but four members,—Lord Craven, Sir John Colleton, Maurice Ashley, and John Archdale. But Trott would not tamely submit to his exclusion. He instituted proceedings in chancery. It was upon this that the move was made in the Assembly in South Carolina against the deputation of his cousin, the Chief Justice, as his representative in the Council.

Trott's case was this: Thomas Amy, it will be recollected, had acted as the agent in procuring immigrants for the colony, and had been made use of as a trustee for them when they bought the share of Sir William Berkeley. This trusteeship they had changed without his consent or release, and had sold the share to Thomas Archdale without his concurrence or his joining in the conveyance. The legal title to the share, therefore, it was claimed, remained in Amy and this claim was really never confuted. The Proprietors had, however, in the place of that share, assigned to Amy the share late of Sothell, which they had sequestered; and Amy had settled it upon his daughter as a portion when she married Trott. Thomas Amy died September 21, 1704. And upon his death, Trott, very probably at the suggestion of his kinsman the Chief Justice of Carolina, set up a claim, not only to the Sothell share which had been settled upon his wife, but also to a considerable sum alleged to have been advanced by Amy while he was acting

as the agent of the Proprietors — a sum ascertained by the courts to amount with interest to £2538 11s 3d. For this sum he claimed that the heirs of Amy, *i.e.* his wife, Ann Trott, and her sister, Elizabeth Moore, were entitled to hold the legal title of the share which had been sold to Archdale without Amy's concurrence or without his joining in the conveyance. This contention of Trott we shall see sustained by the decree of the Lord Chancellor Macclesfield, but afterwards reversed by the House of Lords;<sup>1</sup> that body still, however, recognizing that the legal title was yet in the heirs at law of Amy.

John Archdale, on the 22d of October, 1708, conveyed the share in dispute, the title to which he held, — that originally of Sir William Berkeley, — to his son-in-law, John Danson, for £200. But before doing so he avenged his party upon Sir Nathaniel Johnson, "whose chymical wit," he charged, had transmuted the civil differences in the colony into a religious controversy.<sup>2</sup> The Clarendon-Sothell share, meanwhile, was not represented.

The late Palatine, says Hewatt, from a mixture of spiritual and political pride, despised all dissenters as the enemies of both hierarchy and monarchy, and believed the State could only be secure while the civil authority was lodged in the hands of High Churchmen. Lord Craven did not possess the same proud and intolerant spirit; he considered that those Carolinians who maintained liberty of conscience merited greater indulgences from them, and though a friend to the Church of England, he doubted whether the minds of the people were ripe for the introduction of that establishment. He therefore urged lenity and toleration.<sup>3</sup>

<sup>1</sup> *Trott v. Danson*, 3 *Brown's Parl. Cases*, 449; 1 *Perre Williams*, 780.

<sup>2</sup> *British Empire in Am.*, vol. I, 483.

<sup>3</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 195.



Governor Johnson was now assailed through Archdale's influence from both colonies; from North as well as from South Carolina. By his commission, Sir Nathaniel was Governor of both South and North Carolina, with power to appoint a Deputy Governor in either. Under this power he had appointed Colonel Robert Daniel Deputy Governor of North Carolina, while he personally administered the government of South Carolina. Governor Daniel had succeeded in establishing the church in his colony; but had not attempted a disfranchisement of the non-conformist.<sup>1</sup> But the Quakers, who were very numerous in North Carolina, had refused to take the new oaths prescribed by Parliament in the first year of Queen Anne (1704), and were consequently dismissed from the Council, Assembly, and courts of justice. This so nettled them that, in 1706, they sent one John Porter to England with fresh grievances and complaints against Sir Nathaniel and his deputy, Colonel Daniel,<sup>2</sup> and succeeded in prevailing upon the Proprietors to order Johnson to remove Daniel, and to appoint another Deputy Governor.<sup>3</sup>

Mr. Boone had been much elated by his success with the Board of Trade and the Whig House of Lords against the measures of Sir Nathaniel in South Carolina, and now that Lord Granville was dead, and the dissenters in the ascendancy among the Proprietors, nothing but the disgrace of the Governor would appease the indignity with which he conceived himself to have been treated by the board under the late Palatine. He presented another petition to the Lords Proprietors, charging the Governor with crimes against the civil and religious interests of the province.<sup>4</sup> He charged that the "province was in great

<sup>1</sup> *Colonial Records of No. Ca.*, 1 vol., Preface (W. L. Saunders).

<sup>2</sup> *Ibid.*, 708.

<sup>3</sup> Hawks's *Hist. of No. Ca.*, vol. II, 508.

<sup>4</sup> Dalcho's *Ch. Hist.*, 82.

danger of being brought into a ruinous condition if not absolutely lost, and falling into the hands of the French by the present evil administration of the government there." With feigned devotion he declared that the Fundamental Constitutions — the same aristocratic Constitutions which the people had been resisting since the foundation of the province, and which themselves established the Church of England, but which he now described as "calculated with great wisdom and temper suitable to the different persuasion of christians about religious matters" — had been of late very much violated. That "thereby," *i.e.* by the violation of the Constitutions, "the inhabitants had been so divided, and such animosities raised amongst them, as have been the frequent occasion of riots and tumults in which several of the inhabitants had been in danger of losing their lives."

The inhabitants had hoped, he said, that the province would have been restored to its former peace and tranquillity when the two unreasonable acts of Assembly were repealed by her Majesty's authority, pursuant to an address of the Lords in Parliament; but, contrary to their expectations, the Governor of the province had dissolved the Assembly because he was informed they had prepared an address to her Majesty, and another to the Lords to testify their thankful sense of her Majesty's goodness in repealing those acts and the care of the peers in asserting their rights.

Then came a repetition of the old story that the elections had been managed with such partiality and injustice that "all sorts of people, even negroes, alien jews and common sailors had been admitted to vote in such elections." That to prevent this an act had been passed by both Houses of Assembly, but the Governor had refused to assent to it. Mr. Boone omitted, however, to mention that the reason assigned by the Governor for his so doing was

that the provisions of the act were contrary to his instructions.

A dangerous act had been passed — he went on to say — to continue an Assembly for two years absolutely, and for eighteen months after the death or removal of the Governor, unless the Governor should think fit to dissolve it sooner, whereby the very foundations of the people's freedom was absolutely struck at, and the province deprived of the only method they had to restore its first liberty. Again, Mr. Boone omitted to mention that the Governor, as we have seen, had in fact dissolved the Assembly, so that the objectionable act was at an end. The act was still made to do a turn, — to show how wicked Sir Nathaniel had been in assenting to it.

The Indian nations in the neighborhood of the province, Mr. Boone stated, had been so inhumanly treated that they were in great danger of revolting to the French, who were continually tempting them, whereby the province would be infallibly ruined; that the Governor, though admitting the danger, had refused to consent to an act upon the subject because it would take away a great part of his private profit; nor could he be prevailed upon to consent to it until he had in a shameful manner forced the Assembly to give him the sum of £400 and to settle £100 on him and on all succeeding Governors, which Mr. Boone alleged was a corruption beyond example. Then, changing the subject of his complaint from the Governor to Trott, justice, Mr. Boone charged, was very corruptly and partially administered by the present Chief Justice, who had several offices to himself which ought to be in different hands; that the Chief Justice had been guilty of very arbitrary proceedings by illegally imprisoning some of the best inhabitants, by refusing the presentation of grand juries, by countenancing riots, by taking upon himself



to exercise ecclesiastical authority and arbitrarily depriving an established minister of the Church of England of his living, and with treating some of the best inhabitants with scandalous and "revilious" language in open court. Mr. Boone stated that he had been threatened to be severely used if he should return to his estate and family in the province, only because he had come to England to represent the deplorable condition of the province. That those who had the power in the province had refused the public seal to be affixed to such papers as would make the evidences of all the grievances of the province more authentic, and to render it more difficult for the petitioner to make out his case. That he had forborne making any further application to her Majesty or the Parliament for redress of grievances, in the hopes that their Lordships would be pleased to provide speedy relief.

"Wherefore," continued Mr. Boone, "your petitioner most humbly prays that your Lordships would be pleased to take the calamitous state of the said province into your consideration, and to put the administration of the government there, upon such an equal foot as may be agreeable to the Royal charter by which it is held, and the Fundamental Constitutions established by your Predecessors, which encouraged some of the best inhabitants to transport themselves and families thither, and which while they were duly observed, increased the number of its inhabitants, and made trade to flourish and all the people there to live happy and easy."<sup>1</sup>

The position of the dissenters, as represented by Mr. Boone in England, was most inconsistent and insincere. While flattering the pride of the Proprietors in their Fundamental Constitutions, asserting against the well-known facts that the people had acquiesced in them and

<sup>1</sup> Dalcho's *Ch. Hist.*, 82-84.

flourished under their provisions, he was at the same time invoking the hostility of the Board of Trade to overthrow the charter which he was praising to the Proprietors. The purpose of his mission to England was to prevent the establishment of the church, and yet we find him arguing that the ecclesiastical government of the colony was under the Bishop of London, and declaring that the interference of laymen in church affairs was held in detestation and abhorrence in the colony. Demanding freedom of conscience for the people he represented and claiming that the guarantee of it under the charter carried with it the right of the elective franchise, he was indignantly resenting the extension of that right to the French Protestants who had settled in the province. Mr. Boone was, nevertheless, listened to and the removal of Governor Johnson determined upon.

Governor Johnson was not apprised of these movements against him, and only learned of them when the notice of his removal was received. It was not until April 9, 1709, that the Proprietors wrote to the Assembly notifying them of the appointments of Colonel Edward Tynte as Governor; Colonel Robert Gibbes as Chief Justice; William Sanders, Esq., Attorney General; Henry Wiggington, Secretary; Nathaniel Sale, Esq., son of Governor William Sale, Receiver General; and Edward Hyme, Esq., to be Naval officer. A postscript stated that the Duke of Beaufort was legally invested in the proprietorship of the late Lord Granville, and John Danson in that of John Archdale.<sup>1</sup>

Upon the reconvening of the Assembly October 20, 1709, Governor Johnson thus addressed that body:<sup>2</sup> —

“You all know that the Gentleman who is to succeed me is expected in every day, and my utmost ambition when I resign the gov-

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 156.

<sup>2</sup> Dalcho's *Ch. Hist.*, 80.

ernment is, only to carry with me an unsullied reputation, and the character of having acquitted myself worthy of the trust committed to me; and though I may from the justice of this present assembly promise myself that advantage yet my satisfaction will be imperfect while Mr. Boone's libel against me to the Lords Proprietors remains unanswered, and which their Lordships have been pleased to send me, in order to acquit myself from the imputations it contains.

"It is that infamous Libel, Gentlemen, that I desire to lay before you wherein Mr. Boone most unfairly, when there was no person to appear or answer for me, endeavoured to traduce me to her Majesty, and the Lords Proprietors, and though I could in a less public manner assert my innocence and confute the slanders and reflections therein fixed on me, yet I choose this way not only that I may act with less partiality but that (if I appear to be slandered) I may receive such a public justification as will be sufficient to vindicate my past actions in the government, and confound my accusers, and herein it is my peculiar happiness that I do not appeal to persons unacquainted with my transactions in the government but to men who (for the major part) have been privy to my administration, and witnesses of all my actions both in Church and State.

"It must not at the same time be denied, but that as a man, and a man almost worn out with sickness and old age, I have had my infirmities and stood in need of a little indulgence, and probably some of my most zealous designs for the good of the province had not the designed success, but let me find no favour or excuse of any person, if I am found by your strictest scrutiny to have endeavoured the betraying this province to the French, involving you in a war with our friendly Indians, or any other enormous crimes raked together and penned in a style as inveterate as malice and envy could in the most bitter words be suggested or expressed.

"I do therefore, Gentlemen, conjure you, as each of you respect your particular honour and reputation to do me justice in this affair.

"The Libel or his Petition as he is pleased to call it I herewith lay before you. Please send for Mr. Boone and oblige him, if he can, to prove and make good the crimes he has therein laid to my charge, and give me leave to answer whatever he shall affirm before you, and upon the whole draw up such a report as shall be agreeable to the honour and justice of your House. If I am not innocent let me bear the guilt under the disadvantage of having it declared so by you. But if it appears, the gentleman has undeservedly abused me, let my justification be as public; that it may be recorded in the journals of



your House, be transmitted home to their Lordships to obviate any impressions taken to my disadvantage."

The Commons, who were now entirely in the interest of the Governor, sent for Mr. Boone, who, notwithstanding the warning he declared to have received, had returned home to appear before them and make good the charges he had presented in his petition to the Proprietors. They framed questions to be propounded to him. (1) Did he own to the petition? (2) When he was in England how came he to know that this province was in great danger (as set forth) of falling into the hands of the French and Spaniards, by the ill administration of the Governor? (3) To inform the House what constitutions were in force by laws of the province? (4) How he made out that the Governor had no other reason to dissolve the Assembly than the reason he set forth in his petition? (5) How he made out that the act for continuing an Assembly for two years, etc., was thought proper for the Governor's arbitrary purposes; and so destructive to the people's freedom? (6) Which of the most considerable freeholders and merchants had sent him to the Lords Proprietors? (7) Which and what elections had been invaded and managed with partiality? (8) By whom had the Indians been inhumanly treated and abused? <sup>1</sup>

Mr. Boone refused to submit himself to this examination. He first claimed exemption as deputy of the infant Proprietor Blake, but the other deputies refused to recognize him as such deputy. Upon this he left the town, and escaped the Messenger of the House sent to bring him before that body.

Mr. Boone having escaped their examination, the Assembly thus addressed the Governor: <sup>2</sup> —

<sup>1</sup> MSS. *Commons Journal*, October 29, 1709.

<sup>2</sup> Dalcho's *Ch. Hist.*, 85.

“We the Commons now met at Charles Town do return your Honour our sincere and hearty thanks for that excellent Speech you made, and delivered to us, at the opening of this present Session, and are truly sensible of your Honour’s paternal care over this province during the whole course of your government; and notwithstanding the infirmities of age and sickness, your zeal for the public good in Church and State hath surmounted your particular ease and tranquillity, and you have undergone the fatigue with such cheerfulness and presence of mind, that it hath highly encouraged the inhabitants of this Colony to follow your good and well grounded examples and resolutions and cheerfully to undergo the troubles and expenses they have been at, in order to defend themselves against the common enemy now in this time of war. But when we come to that part of your Honour’s Speech wherein you are pleased to give us an account of your Honour’s being shortly to resign the government, it strikes us with the greatest concern and sorrow for the approaching loss of so good a Governor, and with the greatest wonder to know the reason of such a change, the administration of your government being always just and easy, and all your actions tending to the good of this Colony, so that when the government shall come to be out of your hands, we shall (with much sorrow) look upon it to be the greatest loss that could happen to this thriving Colony. In the next place we cannot but take notice of that false and scandalous Petition to the Proprietors of this Colony wherein there has been so much pains taken to set forth your Honour’s actions in the blackest and bitterest manner; and do assure your Honour that we will use our utmost endeavor to know the truth of that petition by examining the author of it, and doubt not but to find it so false in every respect as to cause us to proclaim your Honour innocent by a vote of our House and that future ages may see that what is therein contained is false, give it room to be entered as such in the journals of our House.

“We do therefore with all due respect render and return our grateful acknowledgments as well for what service your Honour hath already rendered this Colony, and for your earnest desire to settle the Church of England as now by law established, and also for the assurance you are pleased to give us of continuing your provident care in promoting the good of this Colony when you shall be out of the government.”

On November 5, the Assembly also addressed the Lords Proprietors: <sup>1</sup>—

<sup>1</sup> Dalcho’s *Ch. Hist.*, 87.



“We your Lords most Obedient and dutiful servants, the Commons, at this present Assembly convened, have the freedom and liberty to acquaint your Lordships that at the opening of this Session the Right Hon: Sir Nathaniel Johnson Kn<sup>t</sup>, Governor of this your Lordships Province recommended to us in his Speech amongst other things, the examination of a certain petition or memorial said to be lately presented to your Lordships by Mr. Joseph Boone against him requesting our strictest scrutiny therein, and such report thereof as should be agreeable to truth, and the Honour and Justice of a House of Commons. Accordingly (may it please your Lordships) we have taken the subject of that Petition into due consideration and though by the certainty of our own experience and knowledge we can and do from our consciences acquit our Excellent Governor of the maladministration thereby charged on him, yet to pursue the fairness of his request and to take off all umbrages of partiality in the proceeding, but more especially to disabuse your Lordships and vindicate the injured character and reputation of Sir Nathaniel Johnson we Resolved to send for Mr. Joseph Boone and to examine him before a Grand committee of our whole House on the particulars of that Petition, and to that end framed a previous draft of the most pertinent questions to ask him, intending him all necessary countenance and liberty to prove and make good his charge.

“But (my Lords) before matters were brought to this conclusion Mr. Boone (by some means unknown to us) coming to the knowledge of our design and being conscious of his own guilt and inability to maintain his accusation, made an interest (as we understand) with Madam Blake (the young Proprietor Blake’s mother) to be appointed his representative in Council thereby to shelter himself from our House, and avoid the examination; for when our messenger required his attendance before us and gave him notice of our Resolutions he answered him that he would not appear before us, because it interfered with his privilege and the honour of the Upper House. And when afterwards (by an express answer of your Lordships Deputies) we were assured that he was not a member of that honourable number or admitted amongst them through the defect of some necessary qualifications we again sent for him, he most industriously avoided both our messenger, and his own house at Charles Town, and immediately by a hasty retreat or rather flight into the country made it impossible ever since either to see or speak with him. Whereupon we voted Mr. Boone’s refusing to appear before us to be a contempt



of the authority of our House and ordered our messenger to take him into custody to answer that contempt at the Bar of our House. And because he declined to prove and make good before us, the articles in his Petition charged against Sir Nathaniel Johnson we have voted that Petition or Memorial which the said Boone presented to your Lordships to be false and scandalous, tending to create much jealousy and difference amongst the inhabitants of this Colony, and highly dishonourable to our governor. And in order to give your Lordships a more particular and nearer view herein, we have caused exact copies of the whole proceedings to be annexed to and accompany this address. This (my Lords) is all we apprehend necessary to be done in this affair at this time, and which we humbly submit to your Lordships judgment and consideration, professing to your Lordships not only that Sir Nathaniel Johnson in that scandalous Petition of Mr. Boone's is most falsely and barbarously traduced, but that we are all satisfied with his mild and easy government, and fully convinced that (under God) we owe the preservation of our lives and interests in this province to his personal courage, conduct and excellent administration. And at the same time acknowledge to your Lordships the great favour you have done us, not only in appointing so worthy a person for our governor (and that at a time when our circumstances stood in need of a soldier of his ability and experience) but also for continuing his authority so long amongst us; in the whole course of whose judicious management, Your Lordships privileges, and our rights were so well secured and so discreetly tempered that they mutually supporting each other were both preserved.

“This my Lords, and a great deal more (in common justice and gratuity) we owe and shall be ever ready to pay to the memory of Sir Nathaniel Johnson, and hope it will never be in the power of any ill meaning malignant persons to impress your Lordships to his disadvantage.”

This address was signed by James Risbee, Speaker.

The necessity of some Episcopal supervision over the clergy sent to America was pressing in all the colonies.<sup>1</sup> The need of a bishop was urged by the missionaries of the Society for the Propagation of the Gospel upon their first arrival. They appealed for “a suffragan to visit the

<sup>1</sup> Anderson's *History of the Colonial Church*, vol. III, 70-75.

several churches; ordain some, confirm others, and bless all." Governor Nicholson, then Governor of Virginia, whose interest in the church was undoubted, expressed in a letter to the Archbishop of Canterbury his conviction "that unless a bishop be sent in a short time the Church of England will rather diminish than increase in North America." Dean Swift sought to avail himself of this sentiment, and was intriguing for "the bishoprick of Virginia."<sup>1</sup> The claim of the jurisdiction of the Bishop of London appears to have been one of the obstacles in the way of the appointment of a bishop in the colonies.<sup>2</sup> This jurisdiction the Bishop of London exercised to a very limited extent in some of the colonies by the appointment of presbyters as assistants, known to the Church of England as commissaries.<sup>3</sup> But these officers could exercise no other than administrative functions. They had the oversight of the clergy and people, but could not consecrate, ordain, or confirm. Two very able men occupied the position, one in Virginia and the other in Maryland. In the former was James Blair, the founder of the William and Mary College, and in the latter was Dr. Thomas Bray. In accepting the appointment, which he did at no little social and pecuniary sacrifice, Dr. Bray made as a condition the provision of parochial libraries for the ministers who

<sup>1</sup> Swift's works (Scott's ed.), vol. I, 98; Dalcho's *Ch. Hist.*, 90; *Hist. Am. Episcopal Ch.*, vol. I, 398.

<sup>2</sup> *Hist. Am. Episcopal Ch.*, vol. I, 399.

<sup>3</sup> The commissary was an officer in the Church of England whose office was probably derived from the *chorepiscopi* of the ancient church. These were supposed to be mere presbyters, assistants to the bishops whose dioceses were enlarged by the conversion of the Pagans in the country. Bingham, *Antiq.*, vol. I, 56. Commissary is a title of jurisdiction pertaining to him that exerciseth ecclesiastical jurisdiction in places of the diocese so far distant that the chancellor cannot call the people to the bishop's principal consistory court without great trouble to them. Burns's *Ecclesiastical Law*, vol. II, 7.

should be sent out to the province. It was by means of this provision that he hoped to be able to secure from among the unbeneficed and poorer clergy studious and sober men to undertake the service of the church in America.<sup>1</sup> The establishment of these libraries was not confined to Maryland, but, as we have seen, books were sent to South Carolina, as well as to other provinces. It was upon one of these parochial libraries of Dr. Bray that the Provincial Library was founded in 1698, a lay library being added thereto, as before stated.

The church having been now established with eight clergymen resident in the province,<sup>2</sup> ten parishes laid out, and six more churches provided to be built under the act of 1706, the Bishop of London determined to appoint and send out a commissary for South Carolina. In 1707 the Rev. Gideon Johnson, A.M., was recommended to the Bishop of London as worthy of his appointment by the Archbishop of Dublin, and others. The Bishop of London, satisfied with the character and attainments of Mr. Johnson, appointed him his commissary and sent him to Charles Town. The Lords Proprietors wrote, on March 2, 1707-1708, informing the Governor of the appointment, that Mr. Johnson had sailed, and they hoped that according to the Lord Bishop's recommendation he had been chosen minister for Charles Town.

After a tedious passage Mr. Johnson arrived off the harbor; but the ship not being able to cross until a succeeding tide, the commissary, impatient of the delay and anxious to reach his charge, ventured in a small sloop with three other passengers to proceed to town. It

<sup>1</sup> *Hist. Am. Episcopal Ch.* (Bishop Perry), vol. I, 138.

<sup>2</sup> These were the Reverends Atkin Williamson, Edward Marston, William Corbin, Philip de Richbourg, M. de La Pierre, Thomas Hasell, Richard Marsden, and Francis Le Jau. *Dalcho's Ch. Hist.*, 432.



happened that soon after leaving the ship, a sudden squall drove the sloop ashore upon "a sandy island,"<sup>1</sup> where they remained, it is said, twelve days before they were discovered by the boats sent to their relief.<sup>2</sup> The ship, waiting for a tide to cross, did not reach the town for some days after. When it was learned, upon her arrival, that Mr. Johnson had attempted to reach the city, and had not done so, sloops, boats, and canoes were sent in search of the missing clergyman. In the meanwhile, the party had suffered miserably for the want of shelter and food. One of them, a sailor, attempting to swim to the mainland was drowned; Mr. Johnson's health, which was not strong, was seriously injured by the exposure.

Disheartened and discouraged by this untoward entrance upon his work, and finding, as soon as he was able to exert himself, that a party had been raised by one Richard Marsden, who had imposed himself upon the people as a clergyman in good standing, to keep him out of his promised benefice; denied an entrance into his "parsonage house," finding, as he alleged, no respect paid to his official character, nor to the pledges and promises made to him by the authorities, both of Church and State, at home, — the good man in despair wrote to the "Great Bishop" who had sent him and with whom he corresponded: "I never repented so much of anything, my sins only excepted, as my coming to this place, nor has any man been treated with less humanity and compassion considering how much I had suffered in my passage than I have since my arrival in it."<sup>3</sup>

<sup>1</sup> This we suppose to have been Morris Island. Had it been Sullivan's Island, the name would probably have been given, as it was then well established.

<sup>2</sup> Dalcho gives the time of their detention on the island as but *two* days, — which is the more probable. But Bishop Perry quotes the letter as given in the text.

<sup>3</sup> *Hist. Am. Episcopal Ch.*, vol. I, 378.

Mr. Johnson arrived in the midst of the contentions over the church acts. In feeble health, with a large family, he found the cost of living in the province greater, he complained, than in England or Ireland, and for this his stipend was insufficient. But above all he was distressed at the factious opposition at the hands of a brother clergyman. This last difficulty was, however, soon overcome and Mr. Johnson was duly installed as rector of St. Philip's Church. It has been said that Commissary Johnson's humility and prudence softened the asperity of opposing interests in the colony, and that ultimately his piety procured him the love and esteem of all.<sup>1</sup> But Mr. Johnson's private letters to the authorities in England, since come to light, scarcely sustain this character. It is fortunate that the people over whom he came to minister did not know of the impression he had formed and of the opinion of them he had hastened to express upon his first arrival. He wrote to the Bishop of London: <sup>2</sup>—

“The people here generally speaking are the vilest race of men upon the earth. They have neither honor, nor honesty, nor religion enough to entitle them to any tolerable character, being a perfect medley or hotch-potch, made up of bankrupt pirates, decayed libertines, secretaries and enthusiasts of all sorts who have transported themselves hither from Bermudas, Jamaica, Barbadoes, Montserrat, Antego, Nevis, New England, Pennsylvania, etc., and are the most factious and seditious people in the whole world. Many of those that pretend to be churchmen are strongly crippled in their goings between the Church and Presbytery, and as they are of large and loose principles so they live and act accordingly sometimes going openly with the Dissenters, as they now do against the church, and giving incredible trouble to the Governor and clergy.”

This letter scarcely breathes a spirit of humility or Christian charity, and even allowing, as we should do, for

<sup>1</sup> Dalcho's *Ch. Hist.*, 79.

<sup>2</sup> *Hist. Am. Episcopal Ch.*, vol. I, 379.

the untoward events of his arrival, there is a bitterness and contempt in it scarcely compatible with the character of meekness and lovingkindness which should adorn one of his profession. Like Marston, too, it appears that he opposed and criticised the government, even when administered by so good a Governor as Craven. In a letter from Carolina in 1715, supposed to have been written by George Rodd, Attorney General, the writer declares his surprise that the Lords Proprietors should favor that person (Parson Johnson) with the most valuable place under their donation "that openly & daily affronts and writes against the gov."<sup>1</sup> The letter to the Bishop of London would, no doubt, have been pronounced a libel by either party which for the time happened to be in control, and such, indeed, it was. Smith, or Risbee either, would have summoned the reverend gentleman before the bar of the House, to answer for its aspersions, had it fallen into his hands. There was, nevertheless, a grain of truth in the description of the people. They were "medley or hotch-potch." There were very probably persons of each of the classes described. There was a large leaven of the old Puritan factiousness; and there were without doubt many churchmen whose religion was more a matter of politics and association than of earnest conviction. There were probably many characteristics of a newly formed community of bold, restless, adventurous men, who had thrown off the restraints and decorum of an old society, and had not yet formed another. Deference was not likely one of their common graces. But the people generally were not by any means such as Mr. Johnson in the bitterness of his spirit represented them. There were many earnest Christian men in the colony, Puri-

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 223; *Public Records; Year Book City of Charleston* (Ficken), 1894, 321.



tan as well as churchmen. If, as he complained, some of the churchmen were "so strangely crippled in their goings between the Church and Presbytery," was it to be wondered at when there was no bishop in America to confirm? When Marsden's orders were denied, and Marston was driving the members of the church from its doors, was it surprising that some of them strayed off to the White Meeting? The establishment of the church under the circumstances is strong evidence that there were earnest Christians and faithful churchmen in the colony. There must have been a deep religious sentiment in a people, who, numbering less than 10,000 souls, including men, women, and children, Indians and negroes, bond and free, maintained within two years, as we shall see, from the time Mr. Johnson wrote seventeen ministers.<sup>1</sup>

The religious animosities and strifes in the colony were but the counterpart of those in England at the time. They all, indeed, originated in the mother country. They were not indigenous to the province of Carolina.

Another storm of popular religious passion was just about to burst on the Whigs in England over "a dull and silly sermon" of one Dr. Sacheverell, a High Church divine, for which the Whigs unwisely attempted to impeach the author,—a political blunder as great as that of the Tories in 1704, when they attempted to tack the bill against "occasional conformity" upon a supply bill, necessary for the continuance of the war which was then popular. But political sentiment had now again changed, and an outburst of popular enthusiasm in Sacheverell's favor showed what a storm of hatred had gathered against the Whigs and the war.<sup>2</sup>

<sup>1</sup> Howe's *Hist. Presb. Ch.*, 163.

<sup>2</sup> Green's *Hist. English People*, vol. IV, 97.

## CHAPTER XXI

1710-11

JUST before Governor Johnson's removal, he had been called upon by the Royal Government for a detailed statement of the condition of the province. In answer to this an elaborate and carefully prepared report was made. This paper is of so much value and its account so succinctly given that, following Rivers, we shall not attempt to abbreviate, but will give it in full.<sup>1</sup> The letter is dated the 17th of September, 1708, and is signed by Sir Nathaniel Johnson, Thomas Broughton, Robert Gibbes, George Smith, and Richard Berresford.

"We, the Governor and council," said they, "in obedience to her sacred Majestys command and your Lordships instructions, have carefully inquired into the present circumstances of the province, etc.

"The number of inhabitants in this province of all sorts, are computed to be 9,580 souls; of which there are 1,360 free men, 900 free women, 60 white servant men, 60 white servant women, 1700 white free children, 1,800 negro men slaves, 1,100 women negro slaves, 500 Indian men slaves, 600 Indian women slaves, 1,200 negro children slaves, and 300 Indian children slaves.

"The freemen of this province, by reason of the late sickness brought hither from other parts, though now very healthy, and small supply from other parts, are within these five years last past decreased about 100, free women about 40; white servants, from the aforesaid reasons, and having completed their servitude, are decreased 50; white servant women, for the same reasons, are decreased 30; white children are increased 500; negro men slaves by importation, 300;

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 231.

negro women slaves, 200. Indian men slaves, by reason of our late conquest over the French and Spaniards, and the success of our forces against the Appalaskys and other Indian engagements, are within these five years increased to the number of 400, and the Indian women slaves to 450; negro children to 600, and Indian children to 200.

“The whole number of the militia of this province, 950 white men, fit to bear arms, viz: 2 Regiments of foot, both making up 16 companies, 50 men, one with another, in a company; to which might be added a like number of negro men slaves, the captain of each company being obliged by an act of assembly, to enlist, train up and bring into the field for each white, one able slave armed with a gun or lance, for each man in his company; and the governor’s troop of guards, consisting of about forty men; the colonel, lieutenant colonel, captain, cornet, and two exempts, together with nine patrols, ten men in each patrol, to take care of the women and children, in case of an alarm and invasion; French Protestants, and independent company of Santee, consisting of forty-five men, and a patrol of ten men.

“The commodities exported from this province to England, are rice, pitch, tar, buck and doeskins in the hair, and Indian dressed; also, some few furs, as beaver, otter, wildcat, racoon, a little silk, white oak, pike staves and sometimes some other sorts.

“We are sufficiently provided with timber fit for masts and yards of several sizes, both pine and cypress, which may be exported very reasonable, and supplied at all times of the year, there being no frost or snow considerable enough to hinder bringing them down the river.

“Other commodities, not the produce of the place, but brought here from the American islands and exported to England, are logwood braziletto, fustic, cortex, isleathera, tortoiseshell, ambergrease, and cocoa.

“From this province are exported to several of the American islands, as Jamaica, Barbadoes, Antigua, Nevis, St Christopher’s, the Virgin’s, Montserrat, and the Bahama Islands—staves, hooks and shingles, beef, pork, rice, pitch, tar, green wax, candles made of myrtle berries, tallow and tallow candles, butter, English and Indian peas, and sometimes a small quantity of tanned leather.

“Goods imported from the foregoing islands are, rum, sugar, molasses, cotton, fustic, braziletto, isleathera, ambergrease, tortoiseshell, salt, and pimento; logwood is generally brought from the Bay of Campeachy.



“We are also often furnished with negroes from the American Islands, chiefly from Barbadoes and Jamaica; from whence also comes a considerable quantity of English manufactures, and Some prize goods viz. claret, brandy &c, taken from the French and Spaniards.

“We have also commerce with Boston, Rhode Island, Pennsylvania, New York and Virginia; to which place, we export Indian slaves, light deerskins dressed, some tanned leather, pitch, tar, and a small quantity of rice. From thence we receive beer, cider, flour, dry codfish and mackerel; and from Virginia some European commodities.

“Further we have a trade to the Madeiras (from whence we receive most of our wines) also to St Thomas and Curaçoa, to which places we send the same commodities as to the other islands, excepting pitch, tar, and rice, lately prohibited, which prohibition is very disadvantageous to the trade in these parts.

“The trade of this province is certainly increased of late years, there being a greater consumption yearly of most commodities imported. And the inhabitants, by a yearly addition of slaves are made the more capable of improving the produce of the colony. Notwithstanding it is our opinion, that the value of our import is greater (if we include our negroes) than our export, by which means it comes to pass that we are very near drained of all our silver and gold coin; nor is there any remedy to prevent this, but by a number of honest laborious persons to come among us, that would consume but little, by which means the produce of the country being increased might in time make our exportation equalize if not exceed our importation.

“That which has been a considerable though unavoidable hindrance to the greater increase of our trade, is the great duty on goods, both imported, and exported, occasioned by the debts, the country is involved in, by the late expedition, in the time of Governor Moore against St Augustine, and the charge in fortifying Charles Town this time of war and danger; to which may very justly be added the late prohibition of pitch, tar, and rice.

“There are not above ten or twelve sail of ships belonging to this province, about half of which number were built here, besides a ship and sloop now on the stocks; neither are there above twenty seafaring men who may be properly accounted settlers or livers in the province.

“There are not as yet any manufactures settled in the province, saving some particular planters, who for their own use, make a few stuffs of silk and cotton, and a sort of cloth of cotton and wool of their own growth to clothe their slaves.

“All possible precautions are taken by this government to prevent illegal trade, the acts of trade, and navigation being strictly enforced on all occasions.

“And now having answered the several queries stated to us by your lordships, in the best manner we are at present capable of, we humbly crave leave to superadd an account of the Indians our allies, our trade and commerce, with one another and their consumption of our goods, together with the present circumstances of Charles Town, and our new triangular fort and platform at Windmill Point, with an account of what provisions we want, to make them complete fortifications.

“The Indians under the protection of his [her?] majestys government are numerous, and may be of great use in time of invasion. The nations we have trade with are as follows. The Yamassees, situated about 80 to 100 miles south from Charles Town; they consist of about 500 men able to bear arms; they are become great warriors, and are continually annoying the Spaniards, and the Indians their allies.

“To the Southward of the Yamassees are a small nation called Paleachuckles, in number about 80 men. They are settled in a town about 20 miles up the Savannah River, and are very serviceable in furnishing with provisions the Englishmen who go up that river in periangers with a supply of goods for the Indians, and bring skins for them.

“About 150 miles southwest from Charles Town, is settled, on the aforesaid river a nation of Indians called the Savannahs. They are seated in three towns and consist of about 150 men. A few miles distant on the said River is a considerable town of Indians that deserted the Spaniards, and came with our forces from them about five years past. They are known by the name of Apalachys, and are about 250 men, and behave themselves very submissive to this government. These people are situated very advantageous for trade. Indians seated upwards of 700 miles off are supplied with goods by our white men, who transport them from this river upon Indians backs.

“About 150 miles westward are settled on Ochasee River eleven towns of Indians, consisting of 600 men, among whom are several families of the aforesaid Apalachys. These people are great warriors and hunters, and consume great quantities of English goods.

“About 150 miles west from these people on the Chocta-Kuchy River there is a town of Indians settled for carrying on trade who are very serviceable on that account. These people are seated about



midway between Ochasee River and the settlements of the Tallabousies and the Attalbanees. They have many towns and consist of at least 1300 men, are great warriors, and trade with this government for great quantities of goods.

"About 200 miles from the Tallabousies and the Attalbanees westward, lie the nations of Indians called the Chickysaws, who are at least in number 600 men. These Indians are stout and warlike. They are divided part in the English interest and part in the French. There is a factory settled by those French about four days journey down that river whereon the Tallabousies and Attalbanees live.

"We have but few skins or furs from the Chickysaws, they living so distant it will hardly answer the carriage. Slaves is what we have in exchange for our goods, which these people take from several nations of Indians that live beyond them.

"The Cherokee Indians live about 250 miles northwest from our settlements, on a ridge of mountains; they are a numerous people, but very lazy; they are settled in 60 towns and are at least 500 men. The trade we have with them is inconsiderable, they being but ordinary hunters and less warriors.

"There are several nations of Indians that inhabit to the northward of us; our trade as yet with them is not much, but we are in hopes to improve it very shortly.

"From the aforesaid several nations of Indians are brought and shipped for England, one year with another, at least 50,000 skins; to purchase which requires at least £2500 or £3000—first cost of goods in England. The goods proper for a trade with the Indians are English cottons, broadcloth of several colors, duffels blue and red, beads of several sorts and sizes, axes, hoes, falchions, small fusee guns, powder, bullets, and small shot.

"St. Augustine, a Spanish garrison being planted to the Southward of us about 100 leagues makes Carolina a frontier to all the English settlements on the main," etc.

Two years subsequent to this report, *i.e.* 1710, the whites in the colony were computed to be 12 of the whole inhabitants; Indian subjects, 66; and negro slaves, 22. Of the whites again, the planters were 70; merchants, about 13; and artisans, 17. With regard to religion, the Episcopal party were 42; the Presbyterians, including the French



who retained their own discipline, 45; the Anabaptists, 10; and the Quakers, 3.

The prices of daily labor in currency of the colony were, — for a tailor, 5s.; a bricklayer, 6s.; a cooper, 4s.; carpenters and joiners from 3s. to 5s.; a laborer, 1s. 3*d.* to 2s. with food and lodgings. Overseers of planters received from £15 to £40 per annum, and persons engaged to trade with Indians from £20 to £100 per annum.<sup>1</sup>

Taxes were raised for extraordinary purposes from real and personal estate, and generally from imports of wines, liquors, sugar, molasses, flour, biscuits, negro slaves, etc.; dry goods imported paid 3 per cent, and deerskins exported 3*d.* per skin. The duties amounted to about £4500 per annum, which was then £1000 more than the annual expenses of the government.

The expenses consisted of £1000 for ten Church of England ministers; the same for finishing and repairing fortifications; £600 for officers and soldiers in garrison; £300 for military stores; £250 for the Governor; and £400 for incidental charges. The overplus was intended for sinking bills of credit. These estimates were in currency, and so must be reduced by one-third in estimating their value in good money; and this, calculated upon the present currency, will make the items, probably, nearly as follows: the church, from \$13,000 to \$16,000; fortifications the same; officers and soldiers from \$4000 to \$5000; Governors from \$2500 to \$3000; military stores, \$2000 to \$2500; and incidental charges from \$5000 to \$6000.

The bills just mentioned were first issued for £6000 to pay the expenses of the expedition to St. Augustine in 1703, and bore twelve per cent interest. To offer them in payment was a legal tender, and if refused, the creditor lost his claim for the debt. But such refusal never occurred,

<sup>1</sup> Carroll's *Coll.*, vol. II, 260; *Hist. Sketches* (Rivers), 239.

for the paper was hoarded for the sake of the interest. An addition of several thousand pounds was stamped, and the "old currency" exchanged for the new, which was without interest, for the purpose of drawing the bills more into circulation, and to save the treasury from accumulating demands. Notwithstanding the change, the bills remained at par until the subsequent issue of very large amounts caused their depreciation.<sup>1</sup> There was little coin in circulation; and of the little, various values in colonial paper currency were attached to German, Peruvian, Mexican, French, and Spanish pieces of gold and silver. To prevent the confusion arising from the different rates at which these pieces passed in the different colonies, a uniform value was affixed to them, by a proclamation from the mother country, in the sixth year of Queen Anne's reign, — 1707. Hence the denomination of "proclamation money," the standard of which was £133 6s. 6d. paper currency for £100 sterling.<sup>2</sup>

The commerce between South Carolina and England employed, on an average, twenty-two vessels in 1710. The manufactures and slaves imported were only in part paid for by returns of colonial produce. The balance was required by the merchants in spices and exchange sold in Charles Town at fifty per cent premium, and year after year still higher. But the Carolinians held a monopoly of rice, which was soon raised to four times its former price, and other produce in proportion as the currency depre-

<sup>1</sup> In Governor Glen's *Description of So. Ca.*, he states that in 1710 there was not much English money among the colonists, but that what they had passed at fifty per cent advance, the rate of exchange between South Carolina and England being £150 currency per £100 sterling.

<sup>2</sup> The difference must be borne in mind between proclamation money and currency. The former was in foreign coins, the value of which was fixed by act of Queen Anne, 1708. The latter was the paper money of the province. See *Statutes*, vol. II, 708, 709.

ciated. The merchants of London began now to become a new and important power near the throne, ever watchful of the embarrassments of Carolina and prompt to complain of the maladministration of the Lords Proprietors.

The planters sowed rice in furrows eighteen inches apart, about a peck to an acre, with a yield of thirty to sixty bushels. It was cleaned by mills turned by horses or oxen. The lands, after a few years' culture, lay fallow and were esteemed excellent pastures. The usual yield of corn to an acre was from eighteen to thirty bushels, with six bushels of Indian peas sown among it. Besides the great herds of cattle owned, as we have seen, by the planters, swine were raised in great numbers. Orchards of peaches and various fruits, forests of acorns, and mild winters rendered Carolina more abundant in stock than any other English colony.

The experience of forty years among an energetic people, observes Rivers, from whom these statistics have been taken, had drawn from forest, field, and stream the same means of subsistence which we now enjoy. All the arts of peace were introduced, and education and religion had become matters of public concern. But wars and pestilence, tempests and inundations, had not spared them; and the noise of political strife, which disturbed the slumbers of their childhood, had now attuned itself to sounds not unpleasant to their ears.<sup>1</sup>

Colonel Edward Tynte was commissioned Governor of North and South Carolina on December 9, 1708, but it was more than a year after that he came out and entered upon his duties. By his commission, he was authorized to appoint a Deputy Governor or Governors in South or North

<sup>1</sup> *Hist. Sketches of So. Ca.*, 239-242; and see Hewatt's *Hist. of So. Ca.*, vol. I, 155-159; Ramsay's *Hist. of So. Ca.*, vol. II, 160; *Statutes of So. Ca.*, vol. II, notes, 708-713.



Carolina. He was authorized, also, to sell lands in fee in either colony at the rate of £20 for every 1000 acres, with a yearly quit-rent of 10s.

By his instructions, his attention was particularly called to the navigation acts, which he was required strictly to enforce. He was to take care that none but natives of the United Kingdom, or born in her Majesty's plantations, should sit upon juries in cases relating to the Queen's duties or forfeitures of goods by illegal importations. He should give notice to her Majesty's government of any attempted disposition of right of property to any other than her Majesty's natural-born subjects; to take care that all places of trusts in courts of law or connected with the treasury should be in the hands of her Majesty's natural-born subjects. These instructions seem aimed at the exclusion of the Huguenots from these positions and from rights of property without the Royal consent.

By additional instructions, his attention was called to a modification of the navigation acts by which, during the war, the number and proportion of English mariners in each ship or vessel was reduced from three-fourths to one-half.

By still further instructions he was required to transmit to the Proprietors for their approval all laws passed. He was given power, with the consent of four or more deputies, to adjourn or dissolve the General Assembly when he might see fit; to fill vacancies in offices caused by death or removal. Abel Ketelby had purchased 5000 acres, which was to be admeasured to him. In the event of the death of the Governor or his departure, the deputies were to choose one out of their number to be Governor until another should be appointed by the Proprietors. He was to take great care that the Indians should not be abused, that justice should be duly admin-

istered to them in the courts; and he was to exert himself to the utmost to create a firm friendship, and to bring them over for the better protection and defence against the enemy and neighboring French and Spaniards. He was to inform himself of what acts were proper to be passed likely to be beneficial to trade. He was to represent the state of the whale fishing and what further encouragement was proper to be given to it. No land exceeding 640 acres was to be sold without a special warrant. The purchase money and quit-rents of all lands thereafter sold in South Carolina was to be of the value of English sterling money, and to be made payable at Charles Town; lands sold in North Carolina to be of the same value, and made payable at Chowan or Bath Town.<sup>1</sup>

The publications of Oldmixon and Archdale about this time drew attention in England to the fortunes of the Carolinians and other colonists in America. Lord Craven, by nature more moderate than the late Palatine, anxious to avail himself of this interest in his colony, charged upon the new Governor as his first duty the pacification of the people. When after a long delay Colonel Tynte had been approved by the Royal Government, and was ready to enter upon his duties, February, 1710, Lord Craven thus addressed him: "We earnestly request your endeavors to reconcile the minds of the inhabitants to each other, that the names of parties, if any yet remain amongst you, may be utterly extinguished. For we can no ways doubt but their prosperity will most effectually render Carolina the most flourishing colony in all America."<sup>2</sup>

No remarkable events occurred during Governor Tynte's

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 154; *Colonial Records of No. Ca.*, vol. I, 704-706.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 248.

short term of office. He died the summer after his arrival. A General Assembly was held in April, 1710, and several acts were passed and approved by him. One of these was an act for regulating taverns and punch houses;<sup>1</sup> another, an additional act in relation to the establishment of the church.<sup>2</sup> By this latter act the arrears of the parochial charges of St. Philip's, Charles Town, and other parishes were directed to be paid out of the public treasury; and, said the act, "the present rector of St. Philip's, Charles Town, the Rev. Mr. Gideon Johnson, having a numerous family, shall have fifty pounds per annum added to his salary for so long a time as he continues minister of the said parish," etc. The sums of money appropriated by the act were to be paid out of the money received for the duties on skins and furs. The most important of the acts of his brief administration, and one which renders that administration illustrious, however brief its duration, was "*An act for the Founding and Erecting a Free school for the use of the Inhabitants of South Carolina.*"<sup>3</sup>

The recital of this act is interesting as showing that even before this time, notwithstanding the political turmoils and commotions which had distracted the province, the erection of a free school had been proposed, and some steps taken towards its establishment. It is as follows:—

"Whereas it is necessary that a Free School be erected for the instruction of the youth of this Province in grammar and other arts and sciences and useful learning, and also in the principles of the christian religion; and whereas several charitable and well disposed christians by their last wills and testaments have given several sums of money for the founding of a freeschool but no person as yet is authorized to take the charge and care of erecting a freeschool according to the in-

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 336. The date of this act is given in the statute as of 14th of January, 1709. But this is a manifest mistake. Governor Tynte did not come out till some time after.

<sup>2</sup> *Ibid.*, 338.

<sup>3</sup> *Ibid.*, 342.



tent of the donors, and to receive the said legacies, if tendered, nor to demand the same in case of refusal to pay the same, so that for want of some person or persons or body politick or corporate proper for the lodging the said legacies therein the same are not applied according to the pious and charitable intention of the testators or donors. Be it therefore enacted," etc.

The commissioners appointed under this act were the Hon. Colonel Edward Tynte, Esq., Governor, Colonel Thomas Broughton, Esq., Landgrave Joseph Morton, Mr. William Gibbon, Colonel George Logan, Richard Berresford, Esq., Arthur Middleton, Esq., Captain John Abraham Motte, Colonel Hugh Grange, Ralph Izard, Esq., Lieutenant Colonel Alexander Parris, Esq., Lewis Pasquereau, Dr. Gideon Johnson, Dr. Francis Le Jau, Mr. Alexander Wood, and Nicholas Trott, Esq. These commissioners, comprising the leading men of all parties in the province, churchmen, dissenters, and Huguenots, were incorporated for the better support and maintenance of masters or teachers for the school, and for the erecting of schoolhouses and convenient houses for the accommodation of the masters and teachers. They were to meet annually on the second Tuesday in July to choose officers. Colonel Edward Tynte, Governor, was made the first President and required to summon the first meeting. All gifts or legacies formerly given for the use of a free school for the province were appropriated by the act for the school to be founded under it. The commissioners were authorized to take up by grant from the Proprietors or purchase as much land as they should think necessary. They were given power to appoint a fit person to be master of the school by the name and stile of Præceptor and Teacher of Grammar and other arts and sciences. The person to be master of the school was required to be of the religion of the Church of England,

and conform to the same, and should be capable to teach the learned languages, that is to say, the Latin and Greek tongues and also the useful parts of mathematics. The commissioners were to prescribe such orders, rules, statutes, and ordinances for the order, rule, and good government of the school and of the masters and teachers as should seem meet and convenient to them.

The other acts passed at this time were measures of ordinary administration.

Governor Tynte died soon after, and by the instructions which he had brought it had been provided, as we have just seen, that in such an event the deputies of the Proprietors were to choose one of their number to be Governor until another should be appointed by the Proprietors. It happened that at this time there were but three deputies in the province; to wit, Robert Gibbes, Colonel Thomas Broughton, and one Fortescue Turbeville. The last-named person had just come out as the deputy of the Duke of Beaufort,<sup>1</sup> and had been commissioned also to take probate of wills, and to grant letters of administration.<sup>2</sup> Upon the meeting of these for the purpose of choosing a Governor, there had been a recess taken from the morning until the afternoon, when it was declared that Robert Gibbes was chosen and was proclaimed Governor. Strangely, it happened that Turbeville also died suddenly, and upon his death it was discovered that at the morning session Turbeville had voted for Colonel Broughton, but during the recess had been induced by bribery to change his vote to Gibbes. Upon this Broughton claimed the government, alleging Turbeville's primary and uncorrupted vote in his favor. To this Gibbes would not yield. Each persisted in his claim, and thereupon ensued a most discreditable controversy, ending

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 156.

<sup>2</sup> *Ibid.*, 178.

in riot. Many of the people sided with Broughton, but more with Gibbes. Broughton collected a number of armed men at his plantation and proceeded to the town. Gibbes, learning of this, caused a general alarm to be made and the militia to be called out. At the approach of Broughton's party to the gates of the town Gibbes ordered the drawbridge standing near the intersection of Broad and Church, now Meeting, streets, to be drawn up. Broughton's party demanded admittance. Gibbes from within the walls inquired why they came armed in such numbers, and whether they would own him for their Governor. They answered that they had heard there was an alarm, and were come to make their appearance, but would not own him, Gibbes, to be their Governor. He, of course, denied them entrance, whereupon some rode around the walls towards Craven Bastion seeking entrance there; but failing, soon returned to the drawbridge. In the meantime the Broughton party in the town, some of whom were inhabitants and others sailors ready for any mischief, gathered, and proceeded to force a passage and let down the drawbridge. Gibbes's party opposed, but were not allowed to fire upon them. After some blows and wounds given and received, the sailors and men of Broughton's party in the town succeeded so far as to lower the drawbridge, over which their friends entered and proceeded to the watch-house in Broad Street.<sup>1</sup> There the two town companies of militia were posted under arms and with colors flying. When Broughton's party came near they halted, and one of them attempted to read a paper, but could not be heard because of the noise made by the drums of the militia. Thus balked, they marched towards Granville Bastion and were escorted by the seamen. As they passed in front of the militia, whose guns were

<sup>1</sup> Now the site of the old postoffice.



cocked and presented, one of the sailors, catching at the ensign, tore it off the staff. On this provocation some of the militia fired their pieces, but fortunately no one was hurt. Captain Brewton with drawn sword demanded the torn ensign or flag, which was yielded, but Captain Evans, a considerable man of Broughton's party, soon after Attorney General, rescued it. Broughton's party continued their march for some time and then proclaimed him Governor. Hurrahing, they approached the fort gate of Granville Bastion and made a show of forcing it; but observing Captain Pawley with his pistol cocked, and many other gentlemen with their guns presented, and all forbidding them at their peril to attempt the gate, they retired to a tavern in the bay before which they first caused their written paper or proclamation to be again read. After much altercation and negotiation through the mediation of several peacemakers, a compromise was agreed upon by which the controversy was suspended to await the decision of the Lords Proprietors. In the meantime Gibbes was to continue in the administration of the government.<sup>1</sup>

It was not until January 23d, following (1710-11), that an account of the disputes between Colonel Broughton and Colonel Gibbes was received at a meeting of the Proprietors; upon reading which it was determined that Gibbes had been guilty of bribery, and had not been duly elected Governor. The Proprietors, it appears, had, however, before learning of this trouble, determined to appoint Charles Craven, a brother of the Palatine, Governor in the place of Colonel Tynte.<sup>2</sup> Mr. Craven, who

<sup>1</sup> This account is taken from Ramsay (*Hist. of So. Ca.*, vol. I, 53), who gives it upon the authority of an old manuscript in the handwriting of Thomas Lamboll, a native of South Carolina, who died in the year 1775, upwards of eighty years of age. See also *Hist. Sketches* (Rivers), 249.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, 182.

was in Carolina, had already been appointed Secretary of the province.<sup>1</sup> On the 14th of March the Proprietors sent Governor Craven an order declaring that as it appeared to them that Gibbes had been guilty of bribery, it was unanimously resolved that no salary should be paid to him as Governor.<sup>2</sup>

Notwithstanding this action on the part of the Proprietors, Gibbes continued in office, and administered the government until the end of the year. Thoroughly acquainted with the affairs of the province, having been in the colony from its earliest settlement, his administration was marked by wise enactment and the undisturbed prosperity of the people. He was not, however, popular, and found in the Assembly many "unwilling members," who continued "very dilatory for six months"; finally it became impossible to secure a quorum for the transaction of business. Another Assembly was chosen, May, 1711, but many members elected refused to qualify. Upon its assembling, Gibbes expressed his gratification of meeting, before his retirement, those who appeared. In his speech he said "there was one among them to whom he would readily resign the government whenever legally demanded." He rejoiced that they had no complaints to make against him in the various offices in which he had served them, and stated that he had received from the Palatine congratulations on his recent election;<sup>3</sup> for forty-eight years he had been in the service of Carolina, and left it in a flourishing condition, "abounding with trade with almost all parts of America, and most parts of

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, 179.

<sup>2</sup> Daleho's *Ch. Hist.*, note, 92.

<sup>3</sup> These congratulations must have been sent, however, before the Proprietors had received the account of the manner in which he had secured his election by the deputies. There must have been some mistake as to the length of his service, inasmuch as the colony had not been founded but forty-one years.

Europe in amity with us, and some parts of Africa.” He recommended particularly to their attention the introduction of white immigrants on account of the large increase of negroes, who were beginning to exhibit a malicious disposition. He called attention also to the necessity of separating those sick of the smallpox, then prevalent in Charles Town, from contact with such as were not infected.<sup>1</sup>

Several events of interest took place during Gibbes’s administration indicative of the growing and improving condition of the people; it was remarkable also, on the other hand, for the further outbreak of Indian hostilities — this time in North Carolina, but soon to be renewed in this province also.

On the 17th of January, 1710–11, upon the application of several merchants representing “the great advantages that might accrue to her Majesty’s subjects in general by constituting and erecting a port upon the river called Port Royal in Granville County, being as they alleged the most proper place within the province for ships of great burdens to take in meats, pitch, turpentine, and other naval stores for the use of her Majesty’s fleet,” the Lords Proprietors gave “directions for the building of a town to be called Beaufort Town,” — in honor of the new Proprietor, the Duke of Beaufort, — upon the Port Royal River and island of that name.<sup>2</sup> It was nearly twenty-five

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 250, 251.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 159, 181.

Professor Whitney, in his tract upon the “Government of the Colony of South Carolina” (*Johns Hopkins Univ. Studies*, 13 series, 1–11, 64), says: “The second town of importance was Port Royal where the French had settled under Ribault in 1562, and where the Proprietors had wished the colonists to settle in 1670.”

This is very inaccurate. The town was not called “Port Royal,” but “Beaufort Town” as mentioned in the text; nor was it laid out upon



years since the destruction, by the Spaniards, of Stuart Town, Lord Cardross's attempted settlement at Port Royal. But in the quarter of a century since, the country had filled up, and it was now deemed prudent to make another effort to establish a town upon that magnificent harbor. This was the foundation of a settlement which became the wealthiest, most aristocratic, and cultivated town of its size in America ; a town which, though small in number of inhabitants, produced statesmen, scholars, soldiers, sailors, and divines whose names and whose fame are known throughout the country.

During Governor Tynte's brief administration, an act had been passed, as we have seen, to establish a free school. Under Gibbes's rule, the matter was pressed, and, with the assistance of the Society for the Propagation of the Gospel, the project was carried out. The missionaries of the society and many other gentlemen of the province, to whom the want of schools had been a source of great solicitude, addressed the society upon the subject. They described the deplorable condition of the rising generation for want of sufficient education, and lamented the decay of piety and morals as the inevitable consequence of leaving the young to their own pursuits and to the influence of evil example. The spiritual as well as temporal interests of the people were declared to be at stake, as an uneducated community was but a

the spot where Ribault had settled and left his colony in 1562. "Fort Charles," Ribault's settlement, was on "Parris Island," not on "Port Royal Island." The points are at least five miles apart. See *Hist. Sketches* (Rivers), 25, and note ; and Mill's *Atlas of So. Ca.*

Professor Whitney is also mistaken as to the settlement of the third town, "Georgetown." That town was not settled, as he states, about the same time as Beaufort. It was not settled until nearly twenty years after ; nor is Georgetown referred to as Winyaw. "Prince George's Winyaw" is the name of the parish, not of the town.

small remove from the habits and feelings of savage life. The society recognized the force of the appeal, and, in the year 1711, they sent out the Rev. William Guy, A.M., who was placed in charge of the school, and who at the same time was appointed assistant minister of St. Philip's Church. Mr. Guy was a native of England, and in Deacon's orders. He was ordained by Dr. Compton, Bishop of London, January 18, 1711. With Mr. Guy, the society sent out also the Rev. Benjamin Dennis, as a schoolmaster for St. James, Goose Creek. Two schools were thus established in 1711.<sup>1</sup>

The congregation of St. Philip's Church had so increased, — despite the parochial troubles with the ministers, Marston and Marsden, and notwithstanding the character given them by Dr. Gideon Johnson in his private correspondence, — that not only was there a necessity for an assistant minister, but it became necessary to build a new church, both because of the decay of the old building and because the church was too small for the population.<sup>2</sup> The preamble to the act for building the church states that several persons were desirous to have a new church built of brick in Charles Town, to be the parish church there, and a tower or steeple and a ring of bells therein, together with a cemetery or churchyard to be enclosed with a brick wall, for the burial of Christian people; and that charitable and well-disposed persons would contribute towards the building a church, if commissioners were authorized and appointed to receive and take care of all such moneys as should be given for the purpose. Whereupon, the Rev. Gideon Johnson, Colonel William Rhett, Colonel Alexander Parris, Messrs. William Gibbons, John Bee, and Jacob Satur were appointed commissioners for the purpose, and for receiving sub-

<sup>1</sup> Dalcho's *Ch. Hist.*, 93-248.

<sup>2</sup> *Ibid.*, 92.

scriptions and charitable donations; they were authorized to purchase and take grants of town lots for the churchyard, and to build the church of such height, dimensions, materials, and form as they should think fit; to enclose the churchyard, and to procure the ring of bells. The pews were to be built by the direction of the commissioners with the advice of the vestry; the Governor's pew to be built as he should direct. This act was merely permissive; no public funds were appropriated for the purpose.<sup>1</sup>

Though Governor Craven's commission had been signed on the 21st of February, 1710-11, and though he appears to have been in the province, he had not assumed the government when, in September following, the outbreak of the Tuscarora Indians took place in North Carolina.

The Proprietors had been in negotiation with Baron Christopher de Graffenried and Lewis Michel for the establishment of a colony from the Swiss canton of Bern; and on the 3d of September, 1709, had given a warrant to De Graffenried for 10,000 acres of land, and to Michel for 3500 acres. Baron de Graffenried they made a Landgrave. The warrant for the survey of the land granted was made to John Lawson, the traveller among the Indians, and author of the work entitled *A New Voyage to Carolina*, from which quotation has been made, and who was now the Surveyor of North Carolina; and Christopher Gale, the Receiver General, was directed to supply the colonists with provisions upon their arrival.<sup>2</sup> In laying out these tracts Lawson encroached upon lands near the Neuse River, claimed by the Tuscarora Indians. It happened, too, that at the time of the arrival of De Graffenried's colony the government of North Carolina was

<sup>1</sup> Dalcho's *Ch. Hist.*, 453, 454; *Statutes of So. Ca.*, vol. II, 352.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. I, 718.



torn by the most violent factions, one led by Edward Moseley, and the other by Thomas Pollock, to which the Proprietors seem to have been as indifferent, if not disinterested, spectators as they were to the struggles in South Carolina between Colleton and Sothell, Morton and Moore, and Gibbes and Broughton. The Baron, courted by both parties as well because of his title as Landgrave and its rights under the Constitutions, as because of the number of his followers, which might hold the balance of parties, ultimately was drawn to the support of Pollock, who was then maintaining the interest of Governor Hyde, against the pretensions of Colonel Cary, a struggle which ended in the latter's rebellion. During these commotions the Indians were made to believe that De Graffenried had come to expel them from their lands; and the Baron and Lawson, unfortunately exposing themselves upon an expedition up the Neuse River to ascertain if it was navigable, were taken, and Lawson was put to death, it is said, in the most inhuman manner. If the information subsequently derived from the Indians be true, they stuck him full of fine, small splinters of torch-wood, like hog's bristles, and set them gradually on fire. Baron de Graffenried was spared from death and ultimately made his escape. This was but the beginning of the trouble. A general uprising took place, ending in the most horrible massacre on the 22d of September, 1711. Twelve hundred Tuscaroras, separated into numerous small divisions, fell upon the whites at the dawn of that day. The slaughter was indiscriminate and horrible enough to make the Indian annals of Albemarle the bloodiest and most cruel. One hundred and thirty victims were butchered in the settlements on the Roanoke. The Swiss around Newbern, to the number of sixty more, were murdered. The Huguenots of Bath, and its vicinity, to what num-

ber is not known, fell under the knife and tomahawk. Women were laid upon the house floors and great stakes were driven through their bodies; from others big with child the infants were ripped out, and hung upon trees; and so hotly did the Indians pursue the survivors that the dead were left unburied, a prey to dogs, wolves, and vultures. The carnage lasted for three days, and terminated at last only from the disability produced in the savages by the combined effect of drunkenness and fatigue.<sup>1</sup>

Governor Hyde at once communicated the terrible condition of affairs in his province to Virginia and to South Carolina. To the latter he sent, without delay, a special messenger, Christopher Gale. Gale, upon his arrival, presented a memorial to Robert Gibbes as Governor, and to the Council and General Assembly. To receive this, Governor Gibbes immediately convened the General Assembly, which met on the 26th of October, when he laid before the Houses the letters which Gale had brought. Upon reading these in the Assembly, it was at once "*Resolved*: That it is the opinion of this House that the inhabitants of North Carolina in their present deplorable circumstances should be aided and assisted by this government." Upon receiving notice of this resolution, the Governor and Council promptly replied: "We are heartily glad that the Resolution of your House is so agreeable to ours & that those good intentions may the sooner be put in execution we desire that you would speedily propose a method to answer the end we aim at, the relief of our poor distressed Brethren of North Carolina." It was determined to raise immediately a sufficient number of warlike Indians with proper officers for this service, and to

<sup>1</sup> *Colonial Records of No. Ca.*, vol. I, Preface, xxx, and 826; Hawks's *Hist. of No. Ca.*, vol. II, 530.

raise the sum of £4000 to provide arms and ammunition and to meet expenses. It was also “*Ordered*: That the offer of the chief Captain of the forces to be raised to march ag<sup>st</sup> the Tusqueroras be made to Jno Barnwell Esqr. which the Speaker having made: The S<sup>d</sup> John Barnwell answered the House that he thanked the House for the offer & that he would accept the same.”<sup>1</sup>

Colonel Barnwell set out with all expedition; and the Assembly appointed Friday, the 16th of November, a day of humiliation and prayer in behalf of their distressed neighbors. Colonel Barnwell's command consisted of a small body of militia and several hundred Indians; to wit, 218 Cherokees under the command of Captains Harford and Turstons, 79 Creeks under Captain Hastings, 41 Catawbas under Captain Cantey, and 28 Yamassees under Captain Pierce, which little force immediately entered upon the long and toilsome march through the then wilderness between Charles Town and the Neuse River. Governor Hyde, in the meanwhile, had not been idle and, embodying the militia as far as the deplorable factions — which continued even in this great extremity — would allow, and collecting provisions for their coming allies, he awaited their arrival. As soon as this took place and a junction of their forces was made, Barnwell assumed the aggressive. As the troops of the province approached, the Indians collected all their strength into one body, but retreated as Barnwell advanced upon them. He pursued and came up with them on the 28th of January, 1712, in the upper part of the present County of Craven, North Carolina. Here they had erected on the shores of the Neuse a strong wooden breastwork or palisade fort about twenty miles to the westward of the town of Newbern. Receiving at this place some fresh reinforcements, they marched out

<sup>1</sup> MSS. *Journals*; *Colonial Records of No. Ca.*, vol. I, 820-829.



boldly to give battle to the whites. But Barnwell, without waiting their attack, made a furious assault, and defeated them with great slaughter. More than 300 Indians were killed and 100 were made prisoners; how many were wounded or afterwards died of their wounds was not known. The survivors retreated into their fort and were surrounded by the whites. Barnwell, short of provisions and unwilling to carry the fort by assault, because of the white prisoners the Indians had therein, who would doubtless have been at once dispatched had it been attacked, granted a treaty, and peace was willingly concluded. He sent to Charles Town for a sloop to take home his disabled men and himself, for he too had been wounded, while his Indian allies retraced their line of march homeward.<sup>1</sup>

The news of the battle was a great relief to Governor Hyde and his Council. They ordered a formal vote of thanks, first, to the government of South Carolina, for sending Barnwell and the troops; and secondly, they deputed two of their members to convey the thanks of the board to Barnwell personally, "for his great care diligence and conduct." They next resolved at all hazards to prosecute the war, and proposed to raise 200 men for four months' service to act with the South Carolinians under Barnwell's command.<sup>2</sup>

Thus far, observes Hawks, all seemed prosperous, and Colonel Barnwell appears, on the records of the country, to have possessed the esteem and confidence of the authorities in North Carolina. Tradition, too, in that part of the country, he says, has preserved a most respectful remembrance of the South Carolinian leader. Born near

<sup>1</sup> Hawks's *Hist. of No. Ca.*, vol. II, 537; *Hist. Sketches of So. Ca.* (Rivers), 254; Hewatt's *Hist. of So. Ca.*, vol. I, 202.

<sup>2</sup> Hawks's *Hist. of No. Ca.*, vol. II, 538.

the spot, Dr. Hawks says that he made inquiries of the most aged of his countrymen in that region, but could hear no disparaging imputation upon Colonel Barnwell's conduct. His name was still honorably preserved in memory by the same Indian fort ; the spot where it stood is called to this day "Fort Barnwell." But the truth of history requires him, he says, with honest impartiality to relate that it would seem, from the records of the Council of North Carolina of May 9, 1712, some three months after the battle, that for some cause not specifically mentioned the authorities of the province were not satisfied with Barnwell's conduct.

Dr. Hawks states that he had made diligent search to find from other sources the cause of this altered feeling towards Barnwell, and from letters to Governor Spotswood, Governor Hyde, and Colonel Pollock he had gathered that, in two particulars, his conduct was complained of. First, it was alleged that after the Indians had retreated to their fort and were surrounded by his men, he had them completely in his power, and might, by exterminating them, have put an end to the war ; but notwithstanding also that Colonel Mitchell had raised a battery within eleven yards of the fort, and mounted it with two pieces of cannon, surrounding also a portion of the palisade with combustibles, Barnwell, nevertheless, made a treaty with the savages thus beleaguered, and permitted them to escape. Secondly, it was stated that after the treaty he violated good faith by permitting his men to fall upon the towns of those Indians with whom he had made peace, and thus renewed the war.

Dr. Hawks examines very thoroughly these charges, which had been partially accepted, even by our own historian, Professor Rivers, upon the authority of Williamson — an authority which Dr. Hawks refuses, how-

ever, to recognize — and from records not accessible to Rivers in a great measure explains them away. He shows that Governor Spotswood, who charged Barnwell with “clapping up a peace,” knew nothing of the matter personally, and derived his impressions from Governor Hyde and Colonel Pollock, whom Barnwell had offended by an intimacy which had grown up between Moseley and himself. In the bitterness of the factions in North Carolina, it was charged that the Indian outbreak had been instigated by Cary and Moseley. They looked, therefore, upon Barnwell with suspicion and distrust because of his associates, and when the Tuscarora Indians were allowed to escape and very shortly after renewed their hostilities, it was not difficult for them to convince themselves that under Moseley’s influence they had purposely been allowed to do so from sinister motives.<sup>1</sup>

But the recent publication of the manuscript of Baron de Graffenried completely refutes the charges and gives a plain and satisfactory explanation of Colonel Barnwell’s motives for not assaulting the fort when its capture was no longer a matter of doubt. The reason was, as before suggested, that the fort was full of white captives, who cried out that they would be slaughtered if the assault was made. That this simple explanation of a transaction for which Colonel Barnwell was very much blamed by the Pollock faction, says Saunders, in his preface to the *Colonial Records of North Carolina*, comes to us from Switzerland more than a century and half after its occurrence, and not from the Pollock faction, shows with how much caution the statements of that faction must be received. Unfortunately, all the records of that day that have come to us were made by the Pollock faction, and none by their rivals of the Moseley party. It seems,

<sup>1</sup> Hawks’s *Hist. of No. Ca.*, vol. II, 540, 541.



continues Saunders, incredible that Pollock did not know why Barnwell preferred to "clap up a peace" rather than carry the fort by assault; yet he makes no mention of it. Barnwell was on too good terms with Moseley for him to find favor in Pollock's sight. Tradition in and about the locality, it is said, corroborates Dr. Graffenried's statement as to the presence of white captives in the fort.<sup>1</sup>

Dr. Hawks points out, also, that there is something suspicious in the long interval permitted to elapse between the time of the treaty, January, 1712, and the period when the North Carolina Council first noticed the supposed treason, *i.e.* May, 1712. The treaty was no secret during all this period; and it was four months before the Council said a word, and when they did speak, they confessed they had made no examination of the facts, important as they were to the country. They threatened an official complaint to South Carolina, which was to follow if they found Barnwell guilty. No such complaint was ever made.<sup>2</sup> Colonel Barnwell's reputation was so little affected by the factional slander in North Carolina that the second expedition which South Carolina was soon called upon to send would no doubt have been entrusted to him if it were not for the injuries he had received in the first, which rendered him unable to mount his horse.<sup>3</sup>

In the year 1711, still further changes took place in the board of Proprietors. William Lord Craven died, and Sir Fulwar Skipwith was shortly after admitted to the board as guardian to that nobleman's successor, the Lord Craven — then an infant. John Lord Carteret be-

<sup>1</sup> *Colonial Records of No. Ca.*, Preface, xxxi, 955.

<sup>2</sup> Hawks's *Hist. of No. Ca.*, vol. II, 542.

<sup>3</sup> *Hist. Sketches of So. Ca.* (Rivers), 254, note.

came of age and took his seat. On the 8th of November, 1711, at a meeting at the Duke of Beaufort's house, at which, however, his Grace was not present but was represented by Mr. Manly, upon a motion to proceed to the election of another Palatine in the room of William Lord Craven, deceased, a letter was read from Lord Carteret, proposing the Duke of Beaufort, which was unanimously agreed to, and the Duke became the seventh Palatine of Carolina.<sup>1</sup>

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 183.

## CHAPTER XXII

1712

THE Hon. Charles Craven at length assumed the government, — some time in the early part of the year 1712. Since the days of Joseph West, says Rivers, no man more wise, pure, and capable, or more beloved by the people, had been appointed to govern Carolina.<sup>1</sup> Nothing had yet been heard from Colonel Barnwell since he had set out upon his expedition.

When the Assembly met on the 2d of April,<sup>2</sup> the new Governor in his “speech,” as the address upon opening that body was now termed, observed that, having lived some time among them, knowing that the Lords Proprietors had nominated him as Governor, an opportunity had been afforded of diligent inquiry into the state of the province to learn wherein its true interest lay, which none of his predecessors had had at heart more than himself. He recommended them to do everything that might secure the province both from foreign and domestic in-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 251, 252.

<sup>2</sup> The members of this House of Commons, so worthy of remembrance for its excellent work, were as follows: Colonel William Rhett, Speaker; Colonel Alexander Parris, Henry Wigginton, Esq., Thomas Nairne, Esq., Mr. Manly Williams, Mr. John Morgan, Mr. William Gibbon, Mr. Jacob Eve, Henry Noble, Esq., Captain Benjamin Quelch, Captain Peter Staner, Mr. John Oldfield, Mr. William Fuller, Captain Arthur Hall, Mr. John Raven, Mr. Samuel Wragg, Mr. Benjamin Godin, Mr. Jacob Beamor, Captain Lorcey, and Mr. Henroydah English. *Commons Journal* (MS.).



vasion. He urged the repair of Fort Johnson and the fortifications around the town. "'Tis true," he said, "we hear of a treaty of peace going forward, and what may we expect from so good and pious a Queen, whose delight is in her subjects' welfare, but the conclusion is yet uncertain and we are so great a distance that our enemies in the interior may invade us, lay waste our Province before we can receive the benefit of so desirable a blessing."<sup>1</sup> By his instructions, he said, he was ordered to have a particular regard for the Indians, and to protect them from insult; their friendship was so necessary to the well-being of the province he need not press the matter further to the representatives of the people, whose eyes were always open to the public good.

This led him to speak of the expedition to North Carolina, and to express his surprise that in so many months they had no true account of the condition of their friends, their enemies, or even of the army,—none but fabulous reports. Where the fault lay, time only could discover. But as intelligence was the life of action, information must first be obtained before coming to any further resolution upon the subject.

He recommended a review of all the laws passed during the late government, and he was ready to do his part in whatever should be determined by the wisdom of the Assembly. He advised also that some effectual means should be devised of settling funds to discharge the debts of the province, for the honor and dignity of the government, and to maintain the public credit. Then, in reference to the late contentions in the province, he thus spoke:—

"Gentlemen As my own persuasions will ever dispose me to do every thing that may contribute to the prosperity and firm establishment of the Church of England, so will my temper always incline me

<sup>1</sup> *Public Records of So. Ca.*

as a fellow christian to show the greatest tenderness to those who are under the misfortune of dissenting from her, and to do nothing that may seem to endanger them that liberty. It were to be wished indeed that we could all be of one opinion ; but that is morally impossible ; but in this we may all agree, to live amicably together, consult the common good, the tranquillity of our province and the increase of its trade.

“However great such an honor might be,” said he, “yet I shall look on it as a greater glory if with your assistance I could bring to pass so noble designs as the safety of this province, the advancement of its riches, and what is more desirable that unanimity and quiet that will so much contribute toward rendering this the most flourishing colony on the Main. . . . To what a prodigious height hath the united provinces risen in less than a century of years to be able to create fear in some, envy in others and admiration in the whole world.”<sup>1</sup>

The anxiety concerning the Indian outbreak in North Carolina was not relieved until the following July, when the news of Colonel Barnwell’s success was received, and a sloop sent to bring him and his disabled men home.<sup>2</sup> In the meanwhile the spirit of the Governor’s address was highly appreciated and fully responded to.

The Assembly, regardless of factions and animosities, devoted themselves to the welfare of the province, and by their assiduity and ability rendered the year 1712 famous in the legislative annals of the province and State. The South Carolinian lawyer or student of history of to-day finds himself constantly referred back to the statutes of this year as the basis of most subsequent legislation of the State. Governor Craven’s wisdom and diligence doubtless aided greatly in this achievement, and without the active support and countenance of so wise and beneficent a ruler it is not at all probable that so great a work could have

<sup>1</sup> MSS. *Journal Commons* ; Dalcho’s *Ch. Hist.*, 93 ; *Hist. Sketches of So. Ca.* (Rivers), 252.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 254.

been accomplished. But the inspiration and labor of the great undertaking was another's. To Chief Justice Trott doubtless is due the credit and honor of the great compilation of laws enacted at this time. However unscrupulous as a politician, corrupt and tyrannical as a judge, Trott was a profound lawyer, a scholar of great learning, and a most laborious and indefatigable worker. Resting for a while from political agitation, he had spent the time in compiling the laws of the province. Fortunately, it happened that so wise and able a man as Craven was now at the head of affairs, ready with his great influence to assist in securing the results of Trott's work by its enactment into laws. The work consisted of three parts : (1) The revision and amendment of several of the most important matters of recent legislation, and the enactment of measures in regard to the better administration of justice ; (2) the codification and adoption of so much of the statutory law of England as was suitable to the condition of the province ; and (3) the compilation of all previous laws of the colony.

The first measure of Governor Craven's administration was an additional act to those relating to the establishment of religious worship in the province.<sup>1</sup> There was a revision of the previous acts upon the subject, with some new features. The first of these was a provision empowering commissioners to hear and settle all differences concerning the election of ministers. The Church act of 1706 had provided that the rectors or ministers of the several parishes should be chosen by the majority of the inhabitants. This was a very important innovation, as it may be termed, upon the law of England under which the bishop or lay patron had the right of presentation to benefices, and differing from those of the West

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 366.



Indies and other colonies which gave the right to the Governor. It was probably the result of the congregational influence in the colony making itself felt in the establishment of the church, which it could not prevent. But in adopting this provision, in 1706, no method of settling questions which might arise at the election of ministers had been provided. This was now done. If the lay commissioners were not to be allowed to interfere with clergymen in any differences after their installation, they would at least reserve to themselves the right to decide all questions that might arise before ecclesiastical institution. In 1710, under the administration of Gibbes, an act had been passed, as we have seen, for the building of the new brick church at Charles Town, to be the parish church of St. Philip's; provisions were now made for the appointment of commissioners for the purpose.<sup>1</sup> It was in this act of 1712 that we find the recital of the establishment of a provincial library in 1700, and the mention of the deaths of five of the original commissioners. New commissioners are named in the place of the deceased, and times of meeting appointed. That the library was then in active operation is shown by this provision:—

“XXV. Whereas by the said Act (*i.e.* 1700) all the inhabitants of this Province without any exception may have liberty to borrow any book out of the provincial library giving a receipt for the same, which unrestrained liberty hath already proved very prejudicial to the said library, several of the books being lost and others damnified and therefore, for the preservation of the said library it will be necessary to lodge a discretionary power in the person that keeps the same, to deny any person the loan of the book that he shall think will not take care of the same.”

To prevent further loss, the librarian was given a discretionary power in the loan of books. The library was

kept in the parsonage belonging to St. Philip's Church, the minister of which was the librarian.

An important provision of this act was the recognition of the jurisdiction of Dr. Compton, the Lord Bishop of London, and his successors, at least so far that upon the arrival of any minister recommended by his Lordship or by the Society for the Propagation of the Gospel, the salary of such minister, he being chosen the rector or minister of any parish, should begin.

Two very important measures were adopted in relation to schools. The original of the first of these, entitled "*An act for the Encouragement of Learning*," has been, unfortunately, mutilated, — one half of a leaf torn off. The preamble to it, which, however, remains, again refers to the fact that several sums of money had been given by well-disposed persons for building a free school, which could not then conveniently be done; to supply which defect for the present, it was enacted that John Douglass should be master of a grammar school of Charles Town for teaching the Greek and Latin languages, and should choose an usher to assist him "in teaching the languages, reading, English, writing, arithmetick or such parts of the mathematicks as he is capable to teach." It also recited that Mr. Benjamin Dennis, having been sent over by the recommendation of the Society for the Propagation of the Gospel, to be a schoolmaster for the parish of St. James, Goose Creek, had for a considerable time given great satisfaction, and was therefore worthy of consideration, and as, by reason of the neglect of many of his parishioners, sufficient provisions for his maintenance could not be made, which might discourage that honorable society in sending over others, it thereupon provided for Mr. Dennis a salary of £16 a year. As a further

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 376.

provision for Mr. Douglass, the schoolmaster in Charles Town, it was provided that he should receive £3 a year for each scholar to whom he taught the Greek and Latin tongue, and a proportional sum for a longer or shorter time, and for every scholar to whom he taught English writing, arithmetic, or any other part of the mathematics, such a sum as should be agreed upon between the master and learner himself or any other in his behalf; two-thirds of the money received should be for the master, John Douglass; the other third part for the usher.

This act was adopted on the 7th of June; but on the 12th of December, with that of 1710, it was repealed, and in their places another and more elaborate measure was enacted. This was entitled "*An act for Founding and Erecting a Free School in Charles Town for the use of the Inhabitants of the Province of South Carolina.*"<sup>1</sup> The same commissioners were reappointed and incorporated under this act as in that of 1710, with the exception of two changes, — Colonel Rhett and the Rev. Robert Maule were substituted for John Abraham Motte, who was dead, and the Rev. Alexander Wood, who had left the province. These commissioners were to meet annually and choose officers, and twice a year or oftener for other purposes. The Hon. Charles Craven was the first President. They were to receive all gifts and legacies appropriated to a free school, and to take up land and build houses for the teachers. John Douglass was to be the first master of the school, "*by the name and stile of Preceptor or Teacher of Grammar and other the Arts and Sciences to be taught in the Free School at Charles Town for the Province of South Carolina.*" The commissioners were empowered upon his death or departure to supply his place. Though Land-

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 389.



grave Morton, the leading dissenter in the colony, was one of the commissioners, the act provided that the master of the school was to be of the Church of England and to conform to the same. He was to be capable to teach the learned languages,—that is to say, Latin and Greek tongues,—and to catechise and instruct the youth in the principles of the Christian religion as professed in the Church of England. The commissioners were to prescribe rules for the government of the school. Any person giving £20 might nominate one scholar to be taught free for five years. It was provided that in consideration of the schoolmaster's being allowed the use of the lands and dwelling-houses, and the salary of £100 per annum, twelve scholars should be taught free, besides one for any person contributing £20. For any other scholar the master was to be paid at the rate of £4 current money per annum. If the number of scholars became more than one man could well manage, the commissioners might appoint an usher at a salary not exceeding £50 per annum, and 30s. for every scholar under his charge besides the free scholars. And because, said the act, it is necessary to give encouragement to a fit person who will undertake to teach the youth of the province to write, and also the principles of vulgar arithmetic and merchant's accounts, it was provided that a fit person should be appointed to teach those branches, and also the art of navigation and surveying and other useful and practical parts of the mathematics, and for his encouragement was to be paid at the same rate as the usher. Schools might also be established in each of the other parishes, the schoolmasters of which were to have £10 per annum, and £12 current money were allowed for the building of a parish school.

Another most important measure of this time was the pas-

sage of "*An act for the more effectual preventing the spreading of contagious distempers.*"<sup>1</sup> In 1698 an act had forbidden vessels to pass to the east of Sullivan's Island one mile, under penalty of being fired on by the gunner and paying a fine, and the pilot was required to ascertain from the captain if any contagious disorders were on board, under penalty of £50.<sup>2</sup> This subject was now again taken up, and in the act mentioned a quarantine law was put in operation. A health officer was appointed, one Gilbert Guttery, who was empowered and required to board all vessels as soon as they came over the bar of Charles Town, and to make strict inquiry into the health of the place from which such vessel last came, and of all persons on board, and of the causes of death of any who had died during the voyage. He was empowered to send any person on board ashore to the pest-house on Sullivan's Island; and in case of death by malignant disorders having occurred during the voyage, to order the vessel to lie off Sullivan's Island for twenty days. The act was confined to the port of Charles Town, but the Governor might extend its provisions to other ports.

"*An act for the better observation of the Lord's Day, commonly called Sunday,*"<sup>3</sup> illustrates the influence of the puritanical spirit of the times, even upon the people of the Church of England in Carolina. "Whereas," it said, "there is nothing more acceptable to God than the true and sincere service and worship of him, according to his holy will, and that the holy keeping of the Lord's Day

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 382.

Quarantine measures were first adopted in America as follows: Massachusetts in 1648, South Carolina in 1698, Pennsylvania in 1699, Rhode Island in 1711, New Hampshire in 1714, and New York in 1745. Supplement to *Encyclopedia Britannica*, title "Quarantine."

<sup>2</sup> *Ibid.*, 152.

<sup>3</sup> *Ibid.*, 396.

is a principal part of the true service of God which in many places of the Province is so much prophaned and neglected by disorderly persons," it was therefore enacted that all persons whatsoever should on every Lord's Day apply themselves to the observation of the same, by exercising themselves thereon in the duties of piety and true religion, publicly and privately; and, having no reasonable or lawful excuse, should resort to their parish church or some meeting or assembly of religious worship allowed by the laws of the province, and there abide orderly and soberly during the time of prayer and preaching on pain and forfeiture for every neglect the sum of five shillings current money of the province. No tradesman, artificer, workman, laborer, or other person should do any worldly labor or work of the ordinary callings upon that day (works of necessity or charity only excepted), under a like forfeiture. Goods publicly sold on Sunday were forfeited. No person was allowed to travel on Sunday by land or by water except it be to go to the place of worship and to return again, or to visit and relieve the sick, or unless belated the night before, and then to travel no further than to some convenient inn or place of shelter for that day, or upon some extraordinary occasion, for which a person should be allowed to do so under the hand of some Justice of the Peace. No sports or pastimes were allowed. No public house was allowed to entertain any guests on the Lord's Day except lodgers or strangers. For the better keeping of good order, the churchwardens and constables were required once in the forenoon and once in the afternoon, in time of divine service, to walk through the town and to suppress all offences against the act. If any master or overseer should cause or encourage a servant or slave to work on the Lord's Day, he should forfeit the sum of five shillings for every offence. Nothing



in the act, however, was to extend to the prohibiting of dressing of meats in families or public houses, nor to the buying and selling of milk before nine o'clock in the morning, or after four o'clock in the afternoon.

Two important measures in regard to the administration of justice were enacted. One was "*An act for settling the titles of the inhabitants of this Province to their possessions in their estates within the same, and for limitations of actions, and for avoiding suits at law.*"<sup>1</sup> By this act all possessions or titles to lands for seven years without lawful interruption were made good against all claims whatsoever, and the times for bringing actions of all kinds were limited. The other was "*An act for the better securing the payment of debts due from any person inhabiting and residing beyond the sea or elsewhere without the limits of this Province,*" etc.<sup>2</sup> This act, known as the *Foreign Attachment Act*, was a revision of the first act upon the subject passed in 1691 under Sothell's administration, and provided means of seizing an absent or absconding debtor's property, and subjecting it to the payment of creditors. It remained the law upon the subject until the adoption of the new code of procedure in 1872.

The poor laws of the province were revised and remodelled. The vestries of the several parishes were empowered yearly to nominate two or more overseers, who, with the wardens of the parishes, were charged with the ordering and relieving of the poor, out of such money and fines as should be given for their use, which, if not sufficient, was to be supplied by assessments, which the vestries were authorized to make. The main features of this act were taken from the English poor laws.<sup>3</sup>

Another very important measure was "*An act for ap-*

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 583.

<sup>2</sup> *Ibid.*, 588.

<sup>3</sup> *Ibid.*, 593-606.

*pointing an agent to solicit the affairs of this Province in the Kingdom of Great Britain.*"<sup>1</sup> By this act the important policy which prevailed in most of the colonies of maintaining an agent in London to watch and guard the interests of the province before the Proprietors and the Board of Trade was adopted in Carolina; and the agency thus established became of great consequence in the subsequent history of the province, especially during the approaching revolution, and continued scarcely less so under the Royal Government after the overthrow of that of the Proprietors.

The Board of Trade in England were pressing more and more the enforcement of the navigation laws in the colonies, and especially in Carolina, and watching for infringements of them as causes upon which could be based a forfeiture of the charter. Rice and naval stores, the principal exports of the colony, were among the enumerated articles which were forbidden to be shipped for sale except to England. On the other hand, bounties were offered to the importers of pitch, tar, turpentine, and other naval stores. It was deemed of great importance therefore to have an agent in England to watch the interests of the colony, to procure a continuance of the bounty, and, if possible, to procure also permission for Carolina to export naval stores and rice to Spain, Portugal, Africa, and other places in America and the West India Islands. By this act the Hon. Abel Kethellby,<sup>2</sup> of the Inner Temple, who had been made a Landgrave, was appointed agent. His instructions were to procure first the continuance of the bounty, and so earnest was the Assembly in regard to this matter, that he was charged not to let his solicitation for a free exportation of rice interfere with the bounty on the naval stores. A committee, consisting of Charles

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 600.

<sup>2</sup> This name is so spelled in this statute. Elsewhere it is spelled Kettleby.

Hart, Arthur Middleton, and Samuel Eveleigh, Esqs., Mr. William Gibbons, and Henry Wigginton, Esq., was appointed to put the act into execution, and to correspond with the agent from time to time, sending him instructions. The agent was to be paid £150 current money as an encouragement to undertake the agency, and £150 more as soon as an act of Parliament should be passed for a longer continuance of the bounty to the importers of naval stores to England from this province. He was to receive £500 as soon as an act of Parliament should be passed permitting a free exportation of rice from the province to Spain, Portugal, and all places in Africa and America, both continent and islands, and a proportional sum for as many of these places to which he could procure an allowance of such exportation. Two years after, the allowance of the agent was made £200 currency annually, and the committee of correspondence was reduced to three, — Hon. Samuel Eveleigh, Colonel William Rhett, and Arthur Middleton, Esq.

It will be remembered that during Governor Ludwell's administration the Proprietors had disallowed the enactment of a *habeas corpus* act upon the ground that it was not necessary to reënact any statute of England, as such statute applied to this colony *proprio vigore* under the charter.<sup>1</sup> That theory was now abandoned, and under Craven the *habeas corpus* act of King Charles the Second was formally reënacted.<sup>2</sup> Then followed the adoption of Trott's great work, — a general codification of the English statutes, applicable to the condition of the new country, and a compilation of all colonial acts then in force.

This was for the time a stupendous work. There had been before this several instances of compilation of colonial statutes in other provinces, a brief mention of which

<sup>1</sup> *Ante*, p. 247.

<sup>2</sup> *Statutes of So. Ca.*, vol. II, 399.



in this connection will not be without interest here.<sup>1</sup> In Massachusetts, Nathan Ward had compiled the perpetual laws enacted by the General Court as early as 1641. His work was entitled the "Body of Liberties," sometimes called "Liberties," or "Book of Liberties." There were also several revisions by the Plymouth Colony General Court—1636, 1658, and 1671. In Virginia, the laws in force in 1662 were collected out of the Assembly Records, digested into one volume, and revised and confirmed by the General Assembly, and in 1684 a complete collection of all the laws in force, with an Alphabetical Table annexed, was made. In 1673 was published the book of General Laws for the people within the jurisdiction of Connecticut, collected out of the Records of the General Court, then lately revised with emendations and additions established and published by the General Court of Connecticut holden at Hartford in October, 1672. In New York there had been a collection of the laws from 1691 to 1694, and in 1710 the laws as they were enacted by the Governor's Council and General Assembly from 1691 to 1709 were compiled and published. Following Trott's collection of the laws of South Carolina in 1712, which we are now considering, the laws of Pennsylvania, collected into one volume, were published by the order of the Governor and Assembly of the province in 1714; there was a collation of the laws of New Hampshire in 1716; and a partial collection of the laws of New Jersey was made in 1717. These works were all compilations, or collations as they were sometimes termed, of the colonial

<sup>1</sup> These instances are compiled from *The Charlemagne Tower Collection of Colonial Laws*, Historical Society of Pennsylvania, 1890. The author is also indebted for information upon this subject to Hon. Oliver Wendell Holmes of the Supreme Judicial Court of Massachusetts, to Mr. W. P. Upham, Newtonville, Mass., and to Mr. William Brook-Rawle of Philadelphia, Pa.

statutes and laws in force in the respective provinces at the time of their collection, and were made either by private individuals or by enactments of the colonial legislatures. And such was a part of Trott's work — that relating to the compilation of the laws of the province ; but far the most important was the codification of the English statutes, to which we can find no other like and contemporaneous work in America. This work was more than a compilation. It was a codification embodied in a single act. The act was entitled "*An act to put in force in this Province the several statutes of the Kingdom of England or South Britain therein particularly mentioned.*"<sup>1</sup> It comprised an actual revision of the whole body of the statutory law of England, and the selection from it of such statutes not only as were then applicable to the condition of the colony at the time, but which would become so on its further development. The statutes selected, and modified when needful, were one hundred and sixty-seven in number, covering one hundred and eighty pages royal octavo of the second volume of the Statutes at Large. Strange to say, the preamble to this most important act, which is unusually brief, gives no intimation of the magnitude of the measure and assigns the most inadequate reasons for its enactment. The occasion for the act stated is that "many statute laws of the Kingdom of England or South Britain by reason of the different way of agriculture and the differing production of the earth of this Province from that of England are altogether useless, and many others (which otherwise are very apt and good) either by reason of their limitation to particular places or because in themselves they are only executive by such nominal offices as are not in nor suitable for the constitution of this government are thereby

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 401.

become impracticable here." With this very unsatisfactory explanation of the occasion of the work, the act provided that the statutes or parts of statutes of the kingdom of England enumerated in an elaborate table annexed, consisting of statutes from the time of the great charter in the ninth year of King Henry the Third, which was itself specifically mentioned, to the eighth year of Queen Anne, should be of the same force in the province as if they had been enacted in the same. The text of the enumerated statutes was given in full and included in the enactment. It was also provided in the same act that all and every part of the common law of England, when the same was not altered by the enumerated acts or inconsistent with the particular constitutions and customs and laws of the province, and excepting such as had relation to ancient tenures which were taken away by acts of Parliament of 12 Charles II, c. 24, doing away with the court of Wards and Liveries and Tenures *in capite* and by knight's service, was to be of full force in the province. There was also excepted that part of the common law which related to matters ecclesiastical which were inconsistent with or repugnant to the settlement of the Church of England in the province as there established. The Governor with his Council were constituted a Court of Chancery, with the same powers as those exercised by the Lord Chancellor or Lord Keeper of the Great Seal of Great Britain, in England. The Courts of Record in the province were to have the powers of the King's or Queen's courts. All the statute laws of England not enumerated in the act (such only excepted which related to her Majesty's customs and acts of trade and navigation) were declared impracticable. It was provided that nothing in these acts should be construed to take away or abridge the liberty of conscience, or any other liberty in



matters ecclesiastical, from any of the inhabitants of the province, but that the same should still be enjoyed according to the powers and privileges granted to the true and absolute Lords Proprietors by their charter from the Crown, and the several acts of Assembly of the province then in force.

A remarkable circumstance in connection with this act is the undue haste in which a measure of such great importance was hurried through the legislature. It appears by the journal that it was read in the Assembly for the first time on Wednesday, the 26th of November, 1712, and immediately passed by that body with some amendments. It is not mentioned by whom this act was introduced. It was sent at once to the Governor and Council. That body hesitated to act so inconsiderately upon so grave and important a measure, and returned it with a message on the 28th, saying :—

“We take it to be a bill of that consequence that it will require your, as well as our diligent care to overlook all the statutes, that we may know whether all or any part of them are adapted to the nature and constitution of the government of the province. We give to you as our advice and opinion that the best way for both Houses to be satisfied in a case of this consequence will be to commit the bill to a committee of both Houses to examine the said statutes in which we shall readily join with you in appointing a committee to join a committee of yours.” This suggestion of the Governor and Council was at first accepted by the House, and a committee appointed to examine the bill and the several English statutes with instructions to report at the next session of the General Assembly ; or if in case that Assembly should sit no more, the committee were to report to the next sitting of the succeeding General Assembly. What occurred to change this course of proceeding, and to demand im-

mediate action upon the bill, is not disclosed in the journal, nor is there any other contemporaneous statement. The entries in the journal merely show that the bill was read a second time on December 5th, and a third time on the 11th, and that it was ratified on the 12th. The committee probably shrank from so arduous a labor as the revision of these statutes, or perhaps felt themselves incompetent to the task, and determined to accept Trott's work as it stood. It is, perhaps, after all as well that they did so. Their crude attempts to amend may have rather marred than improved a compilation which has remained the groundwork of all subsequent general legislation in South Carolina for nearly two centuries.

There had as yet been no collection of the statutory laws of the province, as had been made in Massachusetts, Connecticut, and Virginia. This want Chief Justice Trott now also supplied. He made a collection of all the statutory enactments he could find, and had them "digested into an exact and easy method," and "a double transcript of the same, with marginal notes, references, and tables, fitted for the press." This work was laid before the General Assembly, approved and adopted by it, and Trott was allowed £250 for his copy. It was also enacted "that the body of the Laws of this Province, being collected by the said Nicholas Trott, shall be forthwith transmitted, either to London, New Yorke, or Boston in New England, there to have four hundred books of the Laws printed and bound, at the charge of the publick and to be paid out of the publick Treasury of the Province, and to be transmitted at the risque of the publick." Further, it was provided "that the said book of the Laws when printed as afore-said be and shall be taken deemed and held a good and lawful Statute Book of this Province in all Courts and upon all occasions whatsoever as the Statute Book of

the Laws of Great Britain is deemed held and taken in that kingdom," etc.<sup>1</sup> Owing, probably, to the financial difficulties of the province, the Indian wars, the troubles with the pirates, and to the revolution which soon took place, overthrowing the Proprietary Government, which revolution was brought about curiously enough in a great measure by his own tyrannical and corrupt conduct, the publication of Trott's collection was not made for more than twenty years after. The manuscript volume, however, now in the Secretary of State's office in Columbia, remains a monument to his patient industry and ability. It was not printed until 1736.

Instead of the crude, fanciful, and extravagant Constitutions of Shaftesbury and Locke, Craven and Trott had now substituted a well-digested and tried system of law suited to the condition of the people of the colony, and fulfilling the requirement of the charter that the laws of the province should be as near as conveniently might be to the laws and customs of England.

It was, however, during this year that the unfortunate experiment was made of establishing a public bank. In 1702, in order to pay the expenses occasioned by the expedition to St. Augustine, the Assembly authorized the issue of stamped bills of credit to be sunk in three years by a duty on liquors, skins, and furs. This was the first paper money that appeared in the province, and was the origin of *current money* mentioned in various acts of Assembly, and of what was called *old currency* to the end of the Royal Government. It was denominated current money to distinguish it from sterling money of England, very little of which was ever in circulation, the balance of trade being always in favor of the mother country.

The credit of this currency was at first equal to sterling

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 602.



and so continued for about six years, but afterwards depreciated. The necessities of the government continually increasing, requiring fresh supplies of a medium of value for circulation to defray the expenses incurred by the Indian and Spanish wars and other exigencies of the colony, succeeding emissions of bills of credit took place. The first emissions were £4000 in 1706,<sup>1</sup> and £8000 in 1707.<sup>2</sup> But in 1712 a new and plausible project was adopted, which, however, contrary to the expectations of its friends, diminished the value of the bills. Interest was then ten per cent, and lands were increasing in value from the successful culture of rice. These circumstances suggested the idea of a land bank as an easy and practicable mode of obtaining money, and of supporting the credit of paper. The enormous issue of £52,000 was made in bills of credit, called bank bills, to be loaned out at interest to such of the inhabitants as could give the requisite security and agreed to pay interest annually in addition to the twelfth part of the principal. This paper currency might be legally tendered in payment of debts. On their emission the rate of exchange and the price of produce quickly increased. In the first year it advanced to 150 and in the second year to 200 per cent. A further depreciation resulted from a further emission of £15,000 by the Assembly in 1716 to assist in defraying the expenses of the Yamassee war. In ten years after the bank was established, — 1722, — it was fixed by law at four for one.<sup>3</sup> This bank act excited the remonstrance of the London merchants, and the Proprietors severely censured Governor Craven for its enactment.<sup>4</sup>

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 274.

<sup>2</sup> *Ibid.*, 302.

<sup>3</sup> *Ibid.*, 389, note, 711 ; Introduction to Brevard's *Digest*, xi ; Ramsay's *Hist. of So. Ca.*, vol. II, 162.

<sup>4</sup> *Hist. Sketches of So. Ca.* (Rivers), 257 ; Hewatt's *Hist. of So. Ca.*, vol. I, 207.

## CHAPTER XXIII

1713-16

IMMEDIATELY upon Colonel Barnwell's return, the Indians in North Carolina resumed hostilities with greater rage and more atrocious cruelties. The Governor of that province again appealed to Virginia and South Carolina for assistance.<sup>1</sup> Another expedition was quickly organized, and, as before stated, the command would doubtless have been given to Colonel Barnwell, but he was still disabled by his wounds.<sup>2</sup> In his absence, it was entrusted to Colonel James Moore, son of the late Governor of that name, who had been a famous Indian fighter. The forces of the new expedition were ordered to rendezvous at the Congaree, and Governor Craven went up to inspect their equipment and to encourage them. Colonel Moore advanced with 40 white men and about 800 Indians, and after a toilsome march arrived on the Neuse. Governor Pollock of North Carolina had, in the meanwhile, been gaining time by negotiations with the Indian chief, Tom Blount. About the middle of January, 1713, Colonel Moore advanced upon the enemy, but was detained by a heavy fall of snow until the 4th of February. The Indians had built a fort near the village of Snow Hill, the seat of Greene County, which they called Nahucke. Into this, on Moore's approach, they retired, and on the 20th of March he laid

<sup>1</sup> Hawks's *Hist. of No. Ca.*, vol. II, 544.

<sup>2</sup> *Hist. Sketches of So. Ca. (Rivers)*, 254, note.

siege to the place, and in a few days became master of it. A large number of the Indians were killed, and 800 prisoners fell into the hands of the conquerors. Moore lost but 58 men, of whom 36 were Indians. The South Carolina Indians, acting precisely as they had done under Barnwell in the previous expedition, secured as many slaves among the captured as they could, and forthwith set out for Charles Town, but 180 remained with Moore. Small as was this force, Moore, in conference with Pollock, determined to keep it in the settlement, and to follow up the blow with another. But the enemy were too much intimidated to afford an opportunity. Such as escaped from Nahucke fled to another fort about forty miles distant, but did not dare to await there Moore's approach. They abandoned the fort. The greater part of them ascended the Roanoke, and finally, leaving the province, joined the Five Nations of the Iroquois in New York, thenceforth making the Sixth.

There seems to have been some fatality attending the position of Palatine of Carolina. Since the long presidency of Earl Craven, from 1681 to 1697, during the seventeen years which had elapsed, *i.e.* from 1697 to 1714, there had been four Palatines, — Earl of Bath, Lord Granville, Lord Craven, and the Duke of Beaufort, each of whom died in office. The Duke of Beaufort had been Palatine but three years, when, on the 5th of July, 1714, his death was announced, and John Lord Carteret, grandson of Sir George Carteret, the first Proprietor of that name, was chosen to succeed him.<sup>1</sup> This was the statesman afterwards celebrated as the Earl of Granville, to which title he succeeded upon the death of his mother, Lady Grace Granville, the daughter of John Granville of Bath, who had been Palatine from 1697 to 1702. Lord Carteret

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 186.



was at this time but twenty-four years of age ; but on the threshold of his brilliant career.<sup>1</sup> He was to be the last Palatine of Carolina.

The announcement of the death of Duke of Beaufort, the Palatine, was followed soon after by that of the death of Queen Anne, which took place on the 1st of August, 1714. On the 4th of September, the Lords Proprietors sent out orders for the proclamation of King George I.<sup>2</sup> The Proprietary Government under the charter had begun very nearly with the restoration of the House of Stuart ; it was to outlast the rule of that race by but a few years. Queen Anne and her war were no more. Peace had been established in Europe. The proclamation of the new King and the oath of allegiance were not made, says Rivers, with the indifference formerly so remarkable in the colony, but with the ardor of those almost in sight of their monarch from whom they looked for relief and happiness. Indeed, says that author, in their warmth of loyalty they forgot the rules of climax. "We, a people," said they, "separated by the immense ocean, can't be blessed with your royal presence. But, like the sun who sheds his glorious beams on all, we may feel the favorable influence of your government. Like Augustus, may your reign be long in peace ; may you be loved at home and feared abroad ; and when Providence calls you from that earthly diadem that now environs your royal

<sup>1</sup> "Lord Granville, they say, is dying. When he dies the ablest head in England dies too, take him for all in all." — *Chesterfield to his Son*, December 13, 1762. Walpole pronounced him to be a greater genius than Sir R. Walpole, Mansfield, or Chatham. — *Memoirs of George II*, III, 85. "I feel a pride," said Chatham, "in declaring that to his patronage, to his friendship and instruction I owe whatever I am." — *Parl. Hist.*, XVI, 1097. See "Sketch of his Character," by Lecky, *England in the Eighteenth Century*, vol. I, 406.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 186.

head may there never be wanting, even to latest posterity, one of the illustrious House of Hanover to fill the British throne.”<sup>1</sup>

Events were fast hurrying on the colonists of Carolina to appeal to the protection of the new King from the foes against whom the Lords Proprietors could afford them no assistance, and forcing them to ask to be taken under the direct care and rule of his own Royal Government. The Indian outbreak in North Carolina had been suppressed ; but an uprising soon followed in this colony which carried its desolation and horrors almost to the gates of the town.

Chief Justice Trott was in England at this time. Upon the completion of his work upon the codification of the laws of the province, he had applied to the Lords Proprietors for leave of absence for his affairs in Great Britain, and on the 13th of August, 1713, leave was granted him, his commission and salary to continue during his absence ; the Governor and Council were to appoint some one to act in his place in the meanwhile.<sup>2</sup> He does not appear to have immediately availed himself of the leave, and it was not until the next year that we find him in London. There he soon thoroughly ingratiated himself with the Proprietors, attained the most complete ascendancy over them, and obtained from them the most extraordinary grant of powers — powers greater, indeed, than those of the Governor himself, and this notwithstanding that the Proprietors had at this time so excellent a Governor in Carolina as Craven. On the day on which they ordered the proclamation of his Majesty King George, the 8th of September, 1714, they issued orders making Nicholas Trott a member of the Council, without whose presence there

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 256 ; *Commons Journals*.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 162.

should be no quorum for the transaction of business, and without whose consent practically no law should be passed. He was to be consulted by their Lordships upon every proposed measure, and on his part he agreed to carry on a regular correspondence with their Secretary, and to give him the best intelligence with respect to their provincial affairs. They added to the power, dignity, and emoluments of the office of Chief Justice. They empowered him to make his own Provost Marshal of the court; increased his salary to £100 per annum, and gave him £100 for proclaiming the King; ordered an official costume for him, as Chief Justice, and twenty constable's staves to be prepared, with the King's arms on the top and the arms of the province underneath. They ordered two transcripts of his compilation of laws to be made, one to be forwarded to them and one to remain in his hands, for which the Treasurer of the province was to pay £80. Sir John Colleton appointed him his deputy, and the Proprietors at the same time appointed his son-in-law, William Rhett, then Speaker of the Assembly, Receiver General.<sup>1</sup>

Armed with these great powers, Trott returned to Carolina. The Governor, Council, and Assembly could not believe that the Proprietors had been guilty of such a piece of folly and tyranny as to ordain that thenceforth the Governor and four councillors should not have power to pass laws unless Trott was one of the quorum! They required that Mr. Trott should produce the strange letter, and it was accordingly read to them. "A power in one man," said Craven, "not heard of before!" "An exorbitant power," replied the Assembly, "unheard of in any of the British dominions, for aught we know in the

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 162-186; Hewatt's *Hist. of So. Ca.*, vol. I, 209; *Hist. Sketches of So. Ca.* (Rivers), 256.



whole world!" Mr. Speaker Rhett dissented to the address of the Assembly to the Governor upon the subject, which contained the expression of a hope that Craven would not resign because of the want of confidence the Lords Proprietors indicated. The Assembly refused to allow the dissent to be entered in the journal. "We can't but admire," they said to the Governor, "that any person acquainted with your acceptable administration should be so forsaken of all divine influences — should so abandon his reason, so diametrically contradict the common sense and the unquestionable experience of the more general sentiments of the whole province as to attempt unjustly to misrepresent your Honor to the Lords Proprietors."<sup>1</sup>

Mr. Joseph Boone, who, it is to be supposed, had in some way purged his contempt of the House in the matter of his libel upon Governor Johnson, was now sent back to England to protest against this extraordinary grant of power to Trott, and with him was sent Mr. Richard Berresford, a churchman. They were not only to protest to the Proprietors against the veto power of Trott and his appointment at will of Provost Marshals, but to endeavor also to obtain redress in several other matters. They were to obtain, if possible, some measures for settling the price of lands on a lasting foundation; for the allowance of the bank act; to secure Craven's continuance in office; to secure the printing of the laws of the province; the allowance of County Courts in every county; leave for laying out Beaufort in lots at the disposal of the Governor; they were given discretionary authority to confer upon any other matter. Their instructions concluded with this significant clause: "And in case the proprietors do not redress our grievances after all necessary measures have been taken with them, we

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 258.

direct you to apply yourselves to a superior power in order that the same may be redressed.”<sup>1</sup>

And now there was to fall upon the province a most terrible calamity. Some years before the Yamassees had deserted the Spaniards who had executed some of their chiefs, and, with apparent implacable hatred against their former friends, removed to South Carolina to the territory lying near Port Royal. During the whole of Queen Anne's war they were the allies of the Carolinians, and in revenge for their own wrongs, marauding bands continually went forth to the southward to lurk in the woods near St. Augustine, or make midnight attacks upon unguarded houses. The honor of the party was at stake, they considered, if they returned without scalps, Indian slaves, or Spanish captives whom they afterwards put to death with every revolting circumstance of inhumanity and savage torture. While availing themselves of the alliance of these Indians, endeavoring at the same time to check their barbarities, the Carolinians offered them a reward of five pounds for every Spanish prisoner brought unharmed to Charles Town, whom they returned in safety to their friends upon the payment of their ransom.

But on the other hand, the regulations in regard to the Indian trade had not been properly enforced during Queen Anne's war, and there had doubtless been abuses which the commissioner on the reëstablishment of peace had endeavored to remedy and restrain. Besides occasional encroachments on their lands, the abuses consisted in fraudulent transactions in buying skins and captives, the seizure of Indian property on pretence of debt, and the demand of exorbitant prices of articles of traffic—contraband rum included, the wrongful detention in bondage of many who claimed to be free, personal ill treatment, immoralities, and

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 258; MSS. *Journals*.



the instigation of feuds. The nature of many abuses, and the reluctance of the Indians in seeking a formal trial before commissioners perhaps hundreds of miles away, rendered impossible the satisfactory adjustment of difficulties however wise the laws might be that made to that end; while on the other hand, anxiety on account of debts justly due, retaliation for injuries, cherished enmities, and a thirst for bloody revenge had not wholly ceased to exist at any period throughout a long series of years. Whatever were the grievances of the Yamassees, it was evident they had been encouraged by the intrigues of the Spaniards; for on the day they began their outbreak against the English, they sent all their women and children to St. Augustine for protection, and on their defeat, retreated thither themselves with scalps and plunder, and were received as in triumph with the ringing of bells and salutes of artillery.<sup>1</sup>

For some time before the outbreak, it had been noticed that the chief warriors of the Yamassees made frequent visits to St. Augustine, and returned with presents of hats and jackets, and with knives, hatchets, firearms, and ammunition.<sup>2</sup> They partook of food with the Governor, and renewed by ceremonies their friendship and allegiance. Yet so sure were the Carolinians of the antipathy of the whole Yamassee nation to the Spaniards, that they anticipated no danger to themselves.

It was customary for the traders to court the favor of some influential chieftain among the Indians, with whom in some instances, savages though they were, no danger, difficulty, or personal sacrifice could weaken the holy claims of friendship. One of these, Sanute, had become the friend of John Fraser, a Scotch Highlander, who lived and traded among his people. Sanute had been to St.

<sup>1</sup> *Reports*, Carroll's *Coll.*, vol. II, 354.

<sup>2</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 192.



Augustine, and on his return he brought some sweet herbs to his friend's house, and bruising them in a basin of water, requested the privilege of washing therewith the face of Mrs. Fraser, as a testimony of his sincere friendship ; and placing then his hands upon his breast, assured her that all in his heart she should for the future know. About nine days before hostilities began, he appeared again and told her a terrible slaughter of all the English was determined upon, and would take place as soon as the bloody stick, the emblem of war, should be returned by the Creeks who, with the Yamassees, the Cherokees, and many other nations, were uniting with the Spaniards, who had assured them that though peace now existed, yet soon war would be declared by Spain against the English. Sanute then urged Mrs. Fraser and her husband to fly with their child in all haste to Charles Town and offered them the use of his own canoe. Placing his hand upon his heart, he declared he had told them all he knew ; if still they would not go, he promised to save them from torture by claiming the last office of a friend in taking their lives with his own hands. Fraser doubted ; but his wife being terrified, he hastened with her and most of his effects to Charles Town, unfortunately without communicating to others the intelligence he had received.<sup>1</sup>

Other intimations of the approaching danger, spreading through the province, induced Governor Craven to dispatch Captain Nairne, agent for Indian affairs, and Mr. John Cochran, gentlemen well acquainted with the Indians, to know the cause of their discontent. These agents went at once to the chief warriors at Pocotaligo,

<sup>1</sup> The family tradition, however, has always been that Fraser extended the information, but that his friends and neighbors, like himself, doubted its truth. They did not act upon it, as the importunities of his wife induced him to do for her sake.

and offered speedy satisfaction for any injuries of which they might complain. The Indians feigned a friendly disposition, at night prepared a good supper for their visitors, and Captain Nairne and his party went to sleep in apparent tranquillity. But at break of day April 15, 1715, the massacre began. The round-house or council-room was beset. Captain Nairne, John Wright, and Thomas Ruffly were murdered. Mr. Cochran, his wife, and four children were at first kept prisoners and afterwards slain; Seaman Burroughs, a captain of militia, a strong and active man, rushed through the midst of the assailants and escaped, though wounded on the cheek. Swimming the river and running several miles, he gave the alarm to the planters in the neighborhood of Port Royal. In the meantime the houses of all the traders and other whites in Pocotaligo were attacked, and more than ninety persons there, and on adjacent plantations, fell victims to the fury of the savages.

The Indians divided themselves into two parties; one attacked Port Royal and the other St. Bartholomew's. Fortunately, a merchant ship happened to be in Port Royal River, on board of which the Rev. Mr. Guy, with most of the inhabitants of St. Helena, about 300 in number, took refuge by the timely warning of Mr. Burroughs. While only a few families were here massacred, in St. Bartholomew's about 100 people fell into the hands of the Indians who came down as far as Stono, burning churches and houses in their way. The Rev. Mr. Osborn and some others escaped to Charles Town. Mr. William Bray, his wife and children, and several others, finding friends among the Indians, were at first spared; but while attempting to escape were all put to death.<sup>1</sup>

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 218; Ramsay's *Hist. of So. Ca.*, vol. I, 158-161; *Hist. Sketches of So. Ca. (Rivers)*, 258-264.



Governor Craven, in this terrible calamity, showed himself as bold and vigorous a Governor as he was a wise and judicious administrator in the times of peace. The most spirited measures were adopted, both for offence and defence. Martial law was proclaimed, and embargo laid on all ships. Robert Daniel was appointed Deputy Governor and left in town, while the Governor, collecting a troop of horse and accompanied by a party of volunteers, set out himself at their head for Pocotaligo. Gathering as many as he could in Colleton, at the head of 240 men he marched directly against the enemy, after dispatching a courier to Colonel Mackay with orders to raise immediately what forces he could and to proceed, by water, to meet him at Yamassee Town. The Governor halted for the night near the Combahee River, within sixteen miles of the enemy's town, and was attacked early the next morning by about 500 of the Yemassees. Notwithstanding the surprise, he soon put his men in order and, after an engagement of three-quarters of an hour, routed the enemy with the loss of only one man killed and a few wounded; while of the Indians, besides the wounded some of their chief leaders were slain. Without guides for crossing the river, and observing the great number of the enemy, the Governor returned to Charles Town.

Colonel Mackay, in pursuit of his orders, on his part surprised the Indians and drove them from their town, in which they had stored up quantities of provisions and plunder. While in possession of this place, learning that the enemy, 200 in number, had posted themselves in another fort, he sent 140 men to attack it. At this time "a young stripling named Palmer," who had been out on a scout with sixteen men, coming to Mackay's assistance, at once scaled the fort and attacked the Indians within their trenches, but was forced to retreat; yet a second



time he effected an entrance with his men and completely drove the enemy from the fort, who fled but to be shot down by Colonel Mackay's forces.

While the activity of the Carolinians checked the incursion on this quarter, a body of 400 Indians from the northward came down towards Goose Creek. A party of them entered Mr. John Herne's<sup>1</sup> plantation near the Santee, and after being hospitably entertained with provisions, treacherously murdered him and began their depredations. Upon news of this, Captain Thomas Barker, collecting ninety horsemen, advanced to meet them. Trusting to an Indian guide, he was led into an ambuscade, in a thicket of trees and bushes, where the enemy lay concealed on the ground. The Carolinians had advanced into the midst of the enemy before they were aware of any danger. The Indians, springing from their lair and pouring in a volley, instantly killed Captain Barker and several of his men and put the rest to flight. So great was now the panic that almost the whole parish of Goose Creek were fleeing the town. Upon one plantation, however, seventy white men, with forty negroes, had thrown up a breastwork, but while unwarily listening to feigned proposals of peace, they permitted the fort to be surprised and only a few escaped a horrid butchery. The incursion was now fortunately checked. The savages, marching triumphantly onward, were met by Captain Chicken and the Goose Creek militia, and, after a long and obstinate engagement, on June 13 were defeated and driven back and the province thus secured in this direction.

All plantations and settlements beyond twenty miles from the town were deserted. More and more alarming rumors reached the Governor. No hopes were now entertained of assistance from the Catawbias, the Cherokees, or

<sup>1</sup> The name is also found spelt *Hearne*, and now *Hyrne*.

the Congarees. All were connected with this formidable conspiracy, which extended from St. Augustine to Cape Fear. Fears were, indeed, entertained of the total destruction of whites. The Indians could number from 8000 to 10,000 warriors. There were on Carolina's muster-rolls but 1200 men fit to bear arms. Nevertheless Governor Craven, relying on the defences of the town, determined to send his forces into the wilderness to meet the enemy. He summoned the Assembly May 6, and thus addressed them: "Expedition is the life of action . . . bring the women and children into our town, and all provisions from all the exposed plantations; try to secure some of the Indians to our interests; garrisons and military stores must be provided. Virginia and New England must be solicited for arms and aid."<sup>1</sup> In response to this address, the Assembly promptly, on the 10th, passed an act to confirm and justify the action of the Governor in proclaiming martial law and appointing a Deputy Governor, and all the measures taken by the Governor, Deputy Governor, and members of Council for the defence of the province.<sup>2</sup> On the same day, another act was passed to empower the Governor and Council to carry on the war, by which the Governor and Council were empowered to impress, for the public service, all ships, vessels, arms, ammunition, provisions, and military stores. Commissioners were appointed to seize goods and merchandise to the amount of £2500, from the proceeds of which to purchase arms and ammunition. They were also authorized to impress medicines and drugs for the sick and wounded. Martial law, as then proclaimed, was allowed; but to extend no further than to military affairs.<sup>3</sup>

Governor Craven, on May 23, addressed a communica-

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 266; MSS. *Journals*.

<sup>2</sup> *Statutes*, vol. II, 623.

<sup>3</sup> *Statutes of So. Ca.*, vol. II, 624.

tion to Lord Townshend, Secretary of State to the new monarch, informing him of the calamity to the province, and appealing to him for assistance. "It is a great pity, my Lord," he wrote, "so fine and flourishing a country should be lost for want of men and arms, a country so beneficial to the Crown by its trade and once so safe to other colonies by reason of the vast number of Indians it was in alliance with. I have no occasion, therefore, to press your Lordship to consider that if once we are driven from hence, the French from Movill (Mobile) or from Canada or from Old France will certainly get footing here if not prevented, and then, with their own Indians and with those that are now our enemies, they will be able to march against all or any colony on the main and threaten the whole British settlements." <sup>1</sup>

This communication was, on its receipt on the 7th of July, laid before the King, who, through General Stanhope, Townshend's fellow-secretary, transmitted it to the Commissioners of Trade and Plantation, with instructions to report what might be the most proper and speedy method of assisting the colonists in Carolina. <sup>2</sup>

The next day Carteret, the Palatine, James Bertie for the minor Duke of Beaufort, and Sir John Colleton also addressed the Lords of Trade, informing them of letters received two days before giving an account of the deplorable condition of his Majesty's subjects in Carolina by the Indian invasion, and of their barbarities in torturing to death most of the British traders. <sup>3</sup> The case, they said, was the worse because it did not proceed from any provocation, as they were informed; that it was believed that all the Indian nations, amounting to 10,000 in number, had combined to ruin all the British settlements on the Con-

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 177, 179.

<sup>2</sup> *Ibid.*, 187, 189.

<sup>3</sup> *Ibid.*, 193.



continent of America to which Carolina was the frontier. They, the Proprietors, had met on this melancholy occasion and, to their great grief, found they were unable of themselves to afford suitable assistance ; and that unless his Majesty would graciously please to interpose by sending men, arms, and ammunition, they could foresee nothing but the utter destruction of his Majesty's faithful subjects in those parts. The Hon. Charles Craven, then Governor, had behaved himself as a man of his quality ought, with the utmost bravery, and to his conduct it was owing that the country had not already been taken by the enemy. They would, they said, most willingly give at their board sufficient security to repay the government such sums of money as should be expended upon this necessary occasion if some of their members, particularly his Grace the Duke of Beaufort and the Right Hon. the Lord Craven, could, by reason of their minority, be bound. Whatever assistance his Majesty could afford, they hoped might be speedily sent. They retained one ship on purpose to carry arms, and would procure others on a day's notice. They had consulted General Nicholson, who had commanded forces against these Indians, and they gave his estimate as to what would be necessary for the defence of the province.

Thus it was that the Proprietors sought to relieve themselves of responsibility in this great emergency, and to turn their colonists, Landgraves, Caciques, and commoners all over to the protection of the Crown. But protection and obedience are the reciprocal obligations of government. If by reason of minorities among their Lordships, they could afford no protection in time of need, what right had they, during such minorities, to be governing the province they could not protect ? This question was arising on both sides of the Atlantic. It

was being asked in London as well as in Charles Town. The Board of Trade was only too ready to take it up, and to press the Proprietors for an answer. On the receipt of the letters from Governor Craven and from the Proprietors, the board signified their desire to give their Lordships an opportunity to discuss with them the subject. And now the agency which the Assembly had established in London came in most opportunely. Mr. Kettleby was on hand to represent the interests of the colonists.

On the 13th of July Lord Carteret, the Palatine, Mr. Kettleby, the agent of the province, Mr. Robert Johnson, son of Sir Nathaniel, and Mr. Shelton, secretary of the Board of Proprietors, appeared before the Board of Trade, when Lord Carteret informed the board that the Lords Proprietors had petitioned his Majesty for assistance towards the preservation of the province which they were unable to support themselves, the minority of two of the Proprietors making it impossible to raise money by mortgaging their charter. He urged, however, that their charter would be a virtual security for what his Majesty should be pleased to advance them in arms and ammunition and other necessaries for the defence of the province, though it would not be so to any private person. Mr. Johnson observed that though Carolina was then under the Proprietors, it was a frontier to the colonies under his Majesty's immediate government, and therefore he hoped his Majesty would send the supply of arms. The board desired that Lord Carteret would put in writing the particulars of what he desired.

The next day, the 14th, the two secretaries, Lord Townshend and General Stanhope, had some conference with the Board of Trade, upon which certain queries were presented to the Proprietors and they were requested to attend the day after with their answers in writing.

Lord Carteret and Mr. Ashley, two of the Proprietors, appeared accordingly on the 15th, and in answering the questions submitted by the Board of Trade, Lord Carteret said that the effects they had lately received from Carolina were rice, which might be disposed of for about £4000 sterling, which they were willing should be applied towards paying for the arms proposed to be sent. That 1500 or even 1000 muskets, which General Nicholson estimated were necessary, could not be immediately furnished but by his Majesty's office of Ordnance; they offered the rice as security towards the payment for these arms. They were not sure of being supplied with arms and ammunition from New England and New York, to which places the Assembly had sent the value of £2500. He urged again the security which his Majesty would have by reason of the charter. It was observed that it would take too long to send transport ships from Carolina to fetch what men his Majesty might think fit to order from any of the northern colonies, — to which Lord Carteret replied that the Proprietors did not desire any men, but if the King would send some, merchant ships might be found to transport them; but the Proprietors, he was compelled to add, were not able at present to hire such ships themselves, and therefore they prayed credit from the government to enable them to do it. Lord Carteret said about 500 men would be sufficient; but the Proprietors expected that the officers who should command these men should be subject to the orders of the Governor of Carolina. The board at once objected, and pointed out the difficulty that would arise from his Majesty's officers submitting to the orders of any person not in immediate commission from him. The board then went to the root of the matter and suggested a surrender of the charter. To this the Proprietors replied that they



were willing to surrender for an equitable consideration, but not otherwise. That they thought any particular Proprietor surrendering his right would be to advance the interest of the rest. That their Lordships' ancestors had been at very great expense in settling and improving this colony, which, in customs on the product thereof, had been of considerable benefit to this kingdom, there being annually produced in Carolina 3000 tons of rice, one-third of which was spent in the country, and the customs on the other two-thirds imported here amounted to £10,000 per annum, or a greater profit to this nation if the said rice be reëxported by the returns—fifty thousand deer-skins, the duties whereof are £1000, besides great quantities of pitch, tar, and other naval stores. That their quit-rents, amounting to about £2000 per annum that country's money (*i.e.* currency), are applied to the payment of the Governor's salary, which is £300 per annum, and for maintaining the other public officers in that government. That a duty is raised in Carolina of a penny per skin exported, which is applied to the maintenance of the clergy there. That in 1707, when Carolina was attacked by the French, it cost the province £20,000, and that neither his Majesty nor any of his predecessors had been at any charge from the first grant to defend the said province against the French or other enemies.<sup>1</sup> To which their Lordships might have added, but did not, that neither had they, the Proprietors.

Landgrave Kettleby, the agent of Carolina, and the merchants in London trading thither, on the 18th, presented a petition to the Lords Commissioners of Trade, imploring the assistance and protection of the Crown. Most of us, said the merchants, have large debts and effects there, some have large plantations, and the loss of

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 193–196.

these would be considerable. But when they reflected upon the ruin of so flourishing, so hopeful a province, that had for many years taken so much of English manufactures, and brought such a large revenue to the Crown, and yet from its first settlement had not put the Crown to one penny expense ; when they reflected upon the loss of so many Englishmen's lives, persons who had always behaved themselves so dutifully to the Crown, and had never forfeited their rights as subjects to protection, and yet were then in imminent danger of being massacred by savages, and perhaps being roasted on slow fires, scalped, stuck with lightwood, and other inexpressible tortures ; when they reflected that this general revolt, concerted by several distant Indian nations, who had never before had policy enough to form themselves into alliances, and could not have proceeded as they had, unless directed and supplied by the Spaniards at Fort Augustine and the French at Moville ; that Carolina, being the frontier of all the other settlements, which, if that should miscarry, would soon involve all the other colonies in the same ruin, and the whole English Empire, religion, and name be extirpated in America, — these dreadful considerations superseded their present losses and induced them to apply to their Lordships for immediate relief and assistance against this public calamity.

They represented that a ship was then lying in the river, called the *Industry*, of one hundred tons' burthen, John Woddin, commander, ready to sail to Carolina, and only stayed, at their request, for the immediate transportation of such arms and ammunition as his Majesty would graciously please to furnish. That with some new assurances of speedy reinforcement of men they hoped to encourage the colonists to hold out a little longer ; but if this ship should go thither in ballast, and bring them



nothing more solid than words and promises, they apprehended despair would suggest to them that their miseries, though known in England, were not duly regarded, and that, with no prospect of timely relief, they would abandon the province.<sup>1</sup>

Fortunately for the colonists, Governor Craven, however urgent he had been in his own direct appeal to the Royal Government, and that through Landgrave Kettleby, the agent of the province, had not depended upon the result of these appeals. With great energy and executive ability, and with a courage that rose superior to the occasion, he was able to meet the emergency and to rescue his province without the aid over which the Proprietors and the Board of Trade were higgling while the Indian savages were pressing to the walls of the town.

He dispatched Francis Holmes to New England to purchase arms with the £2500 appropriated by the Assembly for that purpose; and sent Arthur Middleton to Virginia for assistance. The forces of the colony were organized by the appointment of James Moore as Lieutenant General, John Barnwell, Colonel, and Alexander Mackay, Lieutenant Colonel. These were to consist of 600 white inhabitants to be commanded by captains of sixties, and 400 negroes likewise divided into companies of sixties, commanded by captains and lieutenants. North Carolina promptly reciprocated the assistance she had received from this colony two years before. Governor Eden and Council, on May 25, 1715, called for volunteers for South Carolina, to go at the expense of their province, and organized a force of fifty men to be sent under the command of Colonel Maurice Moore, a brother of the general of South Carolina, and who had gone with him on

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 196-199.



his expedition against the Tuscaroras in 1711, but had remained in the northern colony.

About the middle of July, his Majesty's ship, the *Valour*, Captain St. Loe, arrived with about 160 small arms, ten barrels of powder, and twenty-five casks of shot, sent by Governor Spotswood of Virginia, and on Saturday, the 16th, Captain Middleton arrived with 120 men obtained with the assistance of Governor Spotswood, but for whom he had been compelled to agree to the most stringent terms. Soon after the *Success*, man-of-war, came bringing thirty more men from Virginia, and eighty whites and sixty Indians from North Carolina.

North Carolina, recognizing her obligations, had stopped to ask no condition for the assistance she now sent to her sister southern colony, but Virginia did not act so generously. Mr. Middleton upon his first arrival was received with great civility and large promises of assistance, but when the terms came to be arranged with Governor Spotswood, he was forced to promise that for every man sent Governor Craven should return an able-bodied woman who should continue in Virginia all the time the men sent were absent; the transportation of both parties to be at the expense of South Carolina. This arrangement was found impracticable, and Governor Craven offered in lieu to increase the hire of the men to £4 per month, which modification of the agreement was accepted by Governor Spotswood. South Carolina was already in debt to Virginia, and the payment of the debt was also made a condition of the aid sent.<sup>1</sup>

In pursuance of his purpose of bringing the women and children under the protection of the fortifications of the town, and assuming the offensive against the Indians, Governor Craven had gone to the Santee, where he was

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 253, 254.

organizing the forces for an advance in that direction. While he was so engaged, 700 Apalachis, who had joined the Yamassees, again appeared in the lower part of the province and destroyed all the plantations in their way, among them Lady Blake's plantation on Wadmalaw River, Colonel Eve's on the Tugaloo, and burned Mr. Boone's settlement and a ship he was building. Governor Craven at once hastened to meet this new outbreak; but upon his approach the Indians fled over Pon Pon bridge across the Edisto, which they burned, having killed four or five white men. Captain Stone, sent with six periaguas and 100 men to Port Royal, cut off six canoes of the enemy and drove them into the woods.<sup>1</sup> Governor Craven, having cleared the province of the Indians, in December sent out an expedition under Colonel George Chicken and Colonel Maurice Moore, who, crossing the Savannah at Fort Moore, a few miles below the present site of the city of Augusta, pursued the Indians into the wilds of the Over-Hill Cherokees, following them as far as the Hiwassee River in western North Carolina.<sup>2</sup>

When the Assembly reconvened in February, 1716, hostilities had almost entirely ceased, and the chief object of solicitude was the securing, if possible, a permanent peace with all the surrounding Indian tribes. The Yamassees had acted prematurely, and although 400 whites had been killed and an immense amount of property destroyed, the traders having sustained a loss of £10,000 in debts, yet the invincibility of the Carolinians against the combined power of the savages had been so forcibly proved that

<sup>1</sup> Ramsay's *Hist. of So. Ca.*, vol. I, 163, 267; Letter from Carolina, 1715, *Year Book City of Charleston* (Ficken), 1894, Appendix, 319.

<sup>2</sup> See journal of the expedition supposed to be that of Colonel Chicken, published in *Year Book City of Charleston* (Ficken), 1895, Appendix, 324-352.

never again was a united plot contrived, or an attempt made to penetrate in hostile bands to the vicinity of the capital.<sup>1</sup>

The Yamassees, upon their defeat and expulsion from Carolina, went directly to the Spanish territories in Florida, where they were received, as we have said, with bells ringing and guns firing as if they had come victoriously from the field. Two women prisoners whom they had carried to St. Augustine reported to the Carolinians the kind reception the Indians met with from the Spaniards. It was again, doubtless, the settlement at Port Royal and the laying out of the town of Beaufort there that had aroused the Spaniards to set on the Indians against the English. They had destroyed the attempted settlement of Lord Cardross there in 1686; and now, thirty years after, they put up the Indians to prevent the establishment of the town of Beaufort. Driven from their lands, the Yamassees conceived inveterate ill-will and rancor to all Carolinians, and watched every opportunity of indulging their vengeance on them. Furnished with arms and ammunition by the Spaniards, they broke out in small scalping parties and infested the frontier of the settlements, often inflicting the most atrocious cruelties and tortures.<sup>2</sup>

The Lords Proprietors had written to Governor Craven on the 29th of March, 1713, that as Sir Anthony Craven had died, and as he might wish to come to England, they gave him permission to do so, and intimated their intention of appointing Robert Johnson, son of Sir Nathaniel, to succeed him.<sup>3</sup> Craven had not availed himself of the permission at the time, and he would not abandon the

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 268.

<sup>2</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 223.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 161.



province as long as it was menaced with danger. But now that the Indians had been defeated and the security of the province assured, he felt himself at liberty to do so. His personal courage, upright character, and devotion to the best interests of the government had won for him the esteem and warm attachment of the Carolinians. Their expressions to each other on parting were full of the evidences of their mutual friendship and respect. He left Colonel Robert Daniel Deputy Governor.<sup>1</sup>

A melancholy accident happened upon his departure. He embarked for England on the 25th of April, 1716. While the man-of-war in which he was to sail rode at anchor near the bar, the Rev. Gideon Johnson, the commissary of the Bishop of London, with thirty other gentlemen, accompanied him in a sloop to take leave of him. On their return a storm arose, the sloop was upset, and Mr. Johnson, lame of the gout and being in the hold, was drowned. The other gentlemen were saved. Afterwards the sloop drove, and it was remarkable that Mr. Johnson's body was taken out while it was beating against the same bank of sand upon which he had almost perished at his first arrival.<sup>2</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 268.

<sup>2</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 231 ; Dalcho's *Ch. Hist.*, 98.

## CHAPTER XXIV

1716

WHEN the Tuscaroras had risen, in 1711, on the Neuse, South Carolina had not paused for a day to make a bargain or contract with her northern sister province, but had at once fitted out and dispatched the expedition under Barnwell, and had with like liberality sent another under Moore, in 1713, upon the renewal of that war. In 1715 North Carolina had acted in return with as much generosity, and sent assistance to this province under Maurice Moore. Virginia, when appealed to by Governor Craven, in 1715, had not seen fit to act in this spirit. She had demanded terms and security from Middleton, the agent, and he had had to bargain with Governor Spotswood for the few men he obtained from that province. Nor did Spotswood afterwards neglect the contract he had required, but rigidly insisted upon a compliance with its terms, and complained to the Board of Trade in England that South Carolina had not fulfilled her engagements with him ; so that when the Proprietors and the Carolina agents applied to that board for assistance, they were met with the inquiry as to their liability to that province. To this Carteret had replied that Virginia had looked to her own interests and had acted but prudently in sending assistance to Carolina, it being better to fight an enemy at a distance than within her own territory. But Governor Spotswood continued to press for his hire, and it was

deemed best to send back his men, for whom South Carolina found it inconvenient to pay.

The General Assembly met again soon after the departure of Governor Craven, and its first business was to address a letter on the 15th of March, 1715-16, to its special agents in England, Messrs. Boone and Berresford, urging them to press the appeal to his Majesty to take the immediate government of the province into his own hands; for, according to all human probability, they wrote, unless his Majesty would do so, and send men to defend them and money to defray their charges, this once flourishing colony would be reduced to nothing and become a prey to their barbarous enemies.

According to a moderate computation, they said, the charges that the province had been at for the support of the war amounted to £150,000; what further charges they would incur, God alone knew; they need not use any arguments to make their agents know that this would be a greater burden than the province could possibly bear. The forces from Virginia and North Carolina were on their return home, being unwilling to stay longer, and the Assembly more than willing to release, as they could not afford to maintain them. They were trying to find some means of giving the government of Virginia all the satisfaction they could in reason desire. In their letter the Assembly said: "Wee should not have mentioned anything on this head at this time had not the Govern<sup>r</sup> of Virginia sent us word that he would endeavor to make us look as odious as he could both at home in England, and in all the Kings Govm<sup>ts</sup> in America upon the account of our non performance of every particular branch of the Treaty of assistance agreed upon between that Gover<sup>mt</sup> and our agent sent thither for that purpose. At the same time we must confess that if our late Assembly had fully complied with



that agreement it would not have cost this province near so much money as the measure we shall now be obliged to take.”<sup>1</sup>

Upon the receipt of this letter, Mr. Berresford presented to the Lords Commissioners of Trade and Plantation a memorial upon the condition of South Carolina,<sup>2</sup> stating that the province having for a year past been engaged in war with the Indians, numbers of its inhabitants had been destroyed by fire and sword. The small number of white men fit to bear arms that were left continued to desert the province, and had not the government of Virginia and North Carolina sent to their assistance about 200 men (for part of whom they had been obliged to consent to terms almost impossible to be complied with), many more, if not the greatest part of the present inhabitants would in all probability have deserted. The whole province, thus distressed and despairing of further assistance from the American colonies or from the Lords Proprietors, were under the necessity of making application to the King and Parliament to enable them to subdue their enemies.

The memorial went on to say that their agents and several merchants of London trading to Carolina had accordingly, on the 9th of August before, presented their case by petition to the House of Commons, and after examination by committee, that body had been pleased to address his Majesty to send to the assistance of Carolina such supplies as in his wisdom should be thought needful; that his Majesty had been pleased to send a sufficient quantity of arms, “but the unnatural rebellion,” that of the Pretender then existing in Scotland, had prevented his sending men.

A second petition from the agents, merchants, and

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 224-226.      <sup>2</sup> *Ibid.*, 229-233.

others to the King, they said, had been presented praying that some of the rebels in Scotland who had petitioned to be transported might be sent to serve in Carolina. That by other letters and advices received from the most credible inhabitants, it appeared that, notwithstanding they had made peace with one nation of their Indian enemies, they were still obliged to employ all the force of white men they could raise, together with many of their black slaves, against those Indians who had begun the war, and had since committed the greatest barbarities.

“All of which Representations and Applications,” Mr. Berresford continued, “being made to this Government and also by proper persons here made known to the Honorable the Lord Proprietors, and no sufficient assistance sent them. About the beginning of this instant June arrived here from that Province another address to the King and a letter from the Assembly there very plainly setting forth their present State, which having been shown to the Honorable the Lord Cartwright (Carteret) and others the Lords Proprietors of that Province they had signified their dislike thereto, and as we have too much reason to fear will not only refuse to consent to what may be necessary on their parts but also endeavour to invalidate the said Representation which obliges us the more earnestly to make all the application we are able that the condition of these distressed subjects may in the most effectual manner be laid before and come under the consideration of his Majesty and the Government with the greatest Expedition.”

The memorial pressed again the importance of the colony as an outpost to the other English provinces in America. They represented that “by many former circumstances as well as by the late Letter from the Assembly of Carolina there is too much reason to be assur’d that the

French (who live and trade with the Indians from Quebec and along the Lakes of Canida and southward to and down the great river of Messisippi to Fort Morilla scituated on a River near the mouth of the said great River with the Bay of Mexico) have stirred up and encouraged severall Nations of Indians to this war." The French, they represented, had settled within the bounds of the charter of Carolina on the back of the improved part of the province, and had possessed themselves from the northernmost part of the sea to the southernmost on the back of all the most valuable British plantations and colonies on the main of America. "'Tis too obvious," they said, "what they (especially South Carolina) must expect whenever a Rupture with France may happen if not before. It's also as obvious how formidable the French will grow there during peace considering how industrious they are in frequently supplying their Settlements with People," etc.

"Carolina being thus circumstanced and capable of affording greater quantity of valuable produce than any other part of British America as the best of Rice in abundance, all manner of Timber for building, shipping in great plenty, Pitch, Tar, Turpentine, Rossin, Indigo and Silk which has been manufactured in London and proves to be of extraordinary Substance and Lustre, omitting to mention the great quantity of provisions and other necessarys it affords the Plantation. 'Tis humbly hoped the King and Parliament will be of opinion that it merits a particular notice and Protection.

"The colony being capable of producing sufficient quantities of many of the aforesaid commodities not only to supply great Britain but several other parts of Europe, the first costs of which being paid for, in british manufactorys and the whole freight redounding to his Majestys



Subjects are circumstances worthy of the notice of the Legislature.”<sup>1</sup>

While Boone and Berresford were thus appealing to his Majesty's government to be taken under the Royal care and protection, the Assembly in Carolina were devoting themselves to legislation for the province, not indeed as if they had any idea of abandoning it. One of its first measures was to order “That Col. Maurice Moore be desired (by the messenger) to attend this House, and when come into the same Mr. Speaker do give him the thanks of this House for his service to this Province in his coming so cheerfully with the forces brought from North Carolina to our assistance, and for what further services he and they have done since their arrival here.”<sup>2</sup>

In 1707, under the administration of Sir Nathaniel Johnson, a large tract of land before alluded to, then in-

<sup>1</sup> To this memorial Mr. Berresford added the following tabular statement of the value of the province before the Indian wars, and its losses occasioned thereby: —

#### A DEMONSTRATION OF THE PRESENT STATE<sup>a</sup> OF SOUTH CAROLINA.

The value of The Province the year before the Indian war. viz: Lands, Negroes Stock Merchand <sup>ez</sup> and all other Profit and Improvements by an Assem <sup>bl</sup> the sum total amounting to . . . . .	£ 709.763
The value of the Province is diminished by destruction desertion &c: at least a third which is . . . . .	£ 236.587
The Bills of Credit made current before the war and now extant are . . . .	£ 44.000
The Debts and Bills since the War . . . . .	£ 140.000
The value of Ten Thousand Negroes at Twenty Pounds each which being the only thing the Inhabitants can carry with them when they desert the Province or improve their Lands, and subsist themselves with, while there they will never part with, and therefore the sum of them to be deducted, which is .	£ 200.000
The remaining sum to be exosted before their Debts will be equal to the value of their Lands, and other Stock after whieh (in point of Interest) it seems to be equal for the Inhabitants to leave the Province or stay & pay the Debt if their Troubles were at an end, but if the War continue & the Inhabitants remain on the Land there is too much reason to fear they will be reduced to the miserable condition of their Neighbors in the Bahama Islands which we hope his most Gracious Majesty the King under God will timely prevent .	
	89.176
	£ 709.763

<sup>2</sup> *Commons Journal.*

<sup>a</sup> Condition.

habited by the Yamassees, had been set aside and appropriated by an act for their exclusive use. Surveys and settlements upon it were forbidden, and white settlers already within its limits were removed. The purpose of this measure was to secure the maintenance of these then friendly Indians between the colony and the hostile tribes under Spanish influence in Florida.<sup>1</sup> But after the Indian War and the expulsion of the Yamassees, the Proprietors had written to the Governor and Council on the 3d of March, 1716, that it was the intention of the board that these lands from which the Yamassees had been expelled should be parcelled out in divisions not exceeding 100 acres to be allotted to those who were or might thereafter come to Carolina.<sup>2</sup> The first act of the Assembly of June 13, 1716, under Deputy Governor Daniel was, therefore, one to repeal the act of 1707, and to open these lands to settlers from abroad. The limits of this territory were the Combahee River on the northeast, the marshes and islands on Coosaw and Port Royal rivers on the southeast, the Savannah River on the southwest, and a line drawn from the head of the Combahee River to Fort Moore on the Savannah. These lands were now set apart for settlement by such persons (being Protestants) as might come into the province from Great Britain, Ireland, or any of his Majesty's plantations in America. To every such person 300 acres of river land and 400 acres of back land were offered. The grants were to be confined to "new comers" (actual settlers), who were not to be allowed to convey away their tracts before seven years had expired. The grants were not, however, to be without consideration. A quit-rent of 12 pence per 100 acres was reserved and £3 purchase money to be paid for each

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 317.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 164.

100 acres within four years and six months. This favor being allowed the persons that should settle the said tract of land, said the act, in consideration of their poverty. "Therefore," it continued, "it is the humble request and desire of the General Assembly to the Lord Palatine, and the rest of the Lords Proprietors of this Province that their Lordships for the consideration aforesaid will acquiesce in and approve this part of this act, and accept of their purchase money to be paid as before directed by this act," etc.<sup>1</sup>

The next measure of the General Assembly was one to encourage the importation of white servants. The act recited that sad experience had taught that the small number of white inhabitants was not sufficient to defend the province even against their Indian enemies, and that the numbers of slaves which were daily increasing might likewise endanger its safety if speedy care was not taken to encourage the importation of white servants. Wherefore a bounty of £25 current money of the province was offered to be paid by the Receiver for every white male servant above sixteen years of age and under thirty; and £22 for every boy of twelve and under sixteen; an additional bounty of £5 was offered for all such servants who should be imported within two years. Of the white servants so imported, planters were required to take from the Receiver one servant for every ten slaves owned. But whereas said the act, "there hath been imported into this province several native Irish servants that are Papists, and persons taken from Newgate and other prisons, convicted of capital crimes to the great prejudice and detriment of this province," in order to prevent the imposing upon the province persons of lewd and profligate lives, it provided "that all merchants or masters of vessels or

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 641-646.



others shall upon their oaths declare that to the best of their knowledge none of the servants by them imported be either what is commonly called native Irish or persons of known scandalous characters or Roman Catholics"; merchants shipping servants were "obliged to send a certificate under the hand of the proper magistrate that such persons or servants are Protestants, and be not reputed to be or have not been legally convicted of any notorious crime."<sup>1</sup> Such were the religious animosities of the time and the blindness of prejudice that the colonists appear to have been more afraid of Irish papists than of the Yamassee Indians, and regarded them no better than "persons of lewd and profligate lives." It is scarcely to be wondered, however, that Roman Catholics should be held in such disrepute, when it is recollected that but a few years since the dissenters under Boone were classifying Huguenots, Jews, strangers, aliens, servants, and negroes as alike unworthy of participation in the government with English freemen.

The next measure was one "*for laying an imposition on Liquors, goods and Merchandises Imported or Exported out of this Province for the raising of a Fund of Money towards defraying the public charges and expenses of the Government.*"<sup>2</sup> This act, which laid heavy duties on a long list of enumerated articles of merchandise, and five per cent on all goods not mentioned, made another attempt to check the importation of negroes by imposing heavy duties. Three pounds current money per head was imposed on every negro slave over ten years old imported into the province from Africa; and £30 per head for all such imported from any of the other colonies.<sup>3</sup>

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 646.

<sup>2</sup> *Ibid.*, 649.

<sup>3</sup> From inventories and appraisements on file in the Ordinary's, now

Then followed an act authorizing another emission of bills of credit to the amount of £30,000 for the payment of the army and defraying the expenses of the war, which resulted in a further depreciation of the currency.<sup>1</sup> Also "*An act for the better Regulating the Indian Trade.*"<sup>2</sup> These and other measures of less importance were passed on the 30th of June, 1716. At the same session Governor Daniel had informed the House that he had bought thirty of the Highland Scots rebels at £30 per head, for whom the agent in London had petitioned, and requested power to purchase more. The Assembly sanctioned this purchase; but wished no more "till we see how these will behave themselves."<sup>3</sup> On the 4th of August still another issue of £15,000 in bills was authorized to be stamped to pay for these Scots, who were to be employed as soldiers in defending the province.<sup>4</sup>

Having taken these measures for checking the importation of negroes and encouraging that of white men for the protection of the province, the Assembly turned its attention to remedy the evils and inconveniences which still existed in regard to the election of members of the Commons House of Assembly. Previously to the act of 1692,<sup>5</sup> as we have seen, elections had been conducted entirely under the instruction of the Lords Proprietors to their Governors. The provisions of that act are not known. The act of 1704<sup>6</sup> prescribed the qualifications of a voter to be the age of twenty-one years, the possession of

Probate, office in Charleston, which were made about this time, grown negro slaves appear to have been valued at from £150 to £200 currency; *i.e.* about £40 to £50 sterling. Boone and Berresford in the table just given, it will be seen, value negroes, young and old, male and female, at £20 sterling, round.

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 662.

<sup>2</sup> *Ibid.*, 677.

<sup>3</sup> *Hist. Sketches of So. Ca.* (Rivers), 276, note; *Commons Journals*.

<sup>4</sup> *Statutes of So. Ca.*, vol. II, 682.

<sup>5</sup> *Ibid.*, 73.

<sup>6</sup> *Ibid.*, 249.

50 acres of land or £10 in personal property, and a residence of three months prior to the date of the writs of election ; required the elections to be held in public for two days, and to be by ballot ; but it did not prescribe the voting precincts, nor apportion the representatives to the counties. These matters were left as they had been under the regulations of the Proprietors, and though the representation had been divided in 1682 equally between Berkeley and Colleton, and directions had been given that the elections should be held at Charles Town and London, in Colleton, and again apportioned in 1691 between Berkeley, Colleton, and Craven counties, it had become customary, perhaps through the dangers of Colleton to incursions of the Indians, to hold all the elections in Charles Town. This was not only inconvenient, but it led to the rioting which had often occurred, especially in 1701, and exposed the inhabitants of the country precincts to the influences of the political leaders in the town. It was in every respect a most objectionable and dangerous arrangement, justified only at first by the necessities of the times. This matter the Assembly now took up, and again looked to Barbadoes for a model upon which to base a representative and elective system.

In England the two systems, the parish and the township, have existed from the most ancient times side by side ; usually, but not always, coincident in area, yet separate in character and machinery. The township, which preceded the parish, was the unit of civil, and the parish the unit of ecclesiastical, administration.<sup>1</sup> The nonconformists of New England, disaffected to the church, adopted the township system to the exclusion of the parochial. The churchmen, who settled Barba-

<sup>1</sup> Blackstone's *Com.*, vol. I, 112-116 ; Stubbs's *Cons. Hist.*, vol. I, 227 ; *Encyclopedia Britannica*, vol. XVIII, 295.



does about the same time, on the other hand, established parishes, and from time to time adding civil to the ecclesiastical duties of parochial offices, contented themselves with that organization as the basis alike of civil as of ecclesiastical affairs. The parish thus became the unit alike of Church and State, and the election precinct of members of the Commons House of Assembly. The Church act of 1706, as we have seen, adopted in Carolina the names of the parishes in Barbadoes, and in 1712, the care of the poor, which under Archdale's act of 1695 had been committed to overseers, was put under the charge of the vestries and churchwardens—a legitimate charge in their ecclesiastical capacity. The Assembly of this year went further and adopted the parish electoral system of Barbadoes as the model of the government of this colony. The act which accomplished this was entitled “*An act to keep inviolate and preserve the freedom of Elections and appoint who shall be deemed and adjudged capable of choosing or being chosen Members of the Commons House of Assembly.*”<sup>1</sup> The reasons assigned in the preamble for its enactment were that the greatest part of the inhabitants lived at considerable distance from the stated places of election, whereby they were at great expense of time and money, besides other hazards, in choosing members of the Commons House of Assembly; and as the counties of the province were now divided into distinct parishes, elections might be managed in them so as, in a great measure, to avoid these evils. Its principal features were as follows:—

Elections were to be held in each parish to continue for but two days, beginning at sunrise each day and ending at sunset. These elections were to be managed by the churchwardens, who were to make publication of

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 683.

the writs, and, at the closing of the polls, were to put all the votes, which were to be “delivered in and rolled up by the electors, into some box, glass or paper, sealed with the seals of any two or more of the electors present,” and, upon the opening of the polls the second day, were to be unsealed, in order to proceed to the election.

To prevent persons voting twice at the same election, electors were to be enrolled; their names were to be fairly entered in a book or roll provided by the churchwardens; and if in voting two or more papers were found rolled up together, or more persons' names found written on any paper than ought to be voted for, such papers were not to be counted. It was especially provided that the elector should not be obliged to subscribe his name to the voting paper or ballot, which seems to intimate that some such custom had previously existed; but of this we have no other information. The churchwardens, managers of elections, were, within seven days, to give public notice at the church door, or some other public place in the parish, of the result of the election; and every one chosen was required under a penalty of £100 currency to serve.

The members of the House of Commons were thus apportioned to the parishes: to St. Philip's, Charles Town, four; Christ Church two; St. John's three; St. Andrew's four; St. James, Goose Creek, three; and as, said the act, the limits of the parishes of St. Thomas and St. Dennis were not yet clearly ascertained, “the said parish of St. Dennis lying in the midst of the bounds, and designed only for the use of the French settlements, which at present are mixed with the English,” to the parishes of St. Thomas and St. Dennis were allotted three; to St. Paul's four; St. Bartholomew's three; to St. Helena three; to St. James, on Santee, in Craven County, one.

A special provision was made in favor of the inhabitants of St. Bartholomew's and St. Helena, who had been driven from their settlements; they were allowed to choose persons who had formerly lived in those parishes, and to vote at such places as the Governor and Council should appoint. The bounds of the parishes were to be surveyed within two months after the ratification of the act.

Writs of election were to be issued by the Governor and Council, and to be tested forty days before the meeting of a new House, of which elections public notice was to be given two Sundays before at the door of each parish church or at some other public place in the parish. In case churchwardens should be wanting, the Governor and Council might appoint other persons to manage an election. The managers of election, churchwardens, or other persons appointed were required to be sworn by a Justice of the Peace faithfully to execute the writ of election. This clause was to be the subject of one of the first differences between the people and the Royal Government forty-six years after.

The qualifications of voters prescribed in the act of 1704 were modified. It was now enacted that every white man, and no other, professing the Christian religion, of the age of twenty-one years, who had been in the province for the space of six months before the date of the writ of election, instead of three, as was sufficient under the act of 1704, and who was worth £30 current money of the province, should be entitled to vote for members of the Commons House of Assembly for the parish wherein he was actually resident. The freehold qualification of 1704 was abolished, but the money qualification increased from £10 to £30. For members of the House the qualifications were that the person should be worth £500 current



money in goods and chattels, or possessed of 500 acres of land in the parish wherein he was chosen.

Penalties were presented against those who should violate the freedom of election by menaces, threats, or bribery. A quorum of the House was fixed at sixteen members, nine of whom must concur in the passage of any law ; but seven might meet, "make a house" as it was termed, elect a chairman (in the absence of the Speaker), and adjourn or summon by their Messenger the absent members.

This law, which now assimilated the government of Carolina to that of Barbadoes and the other British West Indies which had followed the model of that colony, was acceptable to all but to a few leaders, chief of whom were Trott and Rhett. Churchmen were satisfied with it, as it incorporated the church into the very warp and woof of the government itself, making use of its machinery for the administration of civil affairs as well as ecclesiastical, and thus more firmly establishing its hold upon the people. On the other hand, it avoided the violence and tumults often witnessed at elections in Charles Town, saved great expense and inconvenience, and allowed parties in the country to manage their elections without interference or influence of the townspeople. It increased the representation in the Commons House to thirty, and most equitably apportioned the representation to the different parts of the province. No more representatives were allowed to St. Philip's, the town parish, than to St. Paul's, in Colleton. But this was fully compensated by the representation allowed the adjoining parishes, St. James, Goose Creek, St. Andrew's, and Christ Church, whose interests and affiliations were all the same as those of the inhabitants of the town. This act thus established the peculiar parish system of South Carolina, which was to last for a century and a half.

The Proprietors had yielded to the wishes of the people, and on the 24th of February, 1716, had revoked the veto power of Trott and his power to appoint Provost Marshals.<sup>1</sup> They had also agreed to the appropriation of the Yamassee lands to new settlers,<sup>2</sup> and in April had contributed £500 towards the building of the new St. Philip's Church, and directed that the Rev. Mr. Johnson, for whom they entertained a high opinion, was to receive £100 per annum during his residence in the parish of Charles Town, and also arrears for assize sermons from the year 1708 to 1713.<sup>3</sup> But Mr. Johnson, as we have seen, had not lived to enjoy these additions to his income. Though the Proprietors had withdrawn the extraordinary powers they had conferred upon Trott, they had lost no confidence in him, and were ready to trust him with other positions and duties in addition to those of his great office of Chief Justice. Lord Carteret, the Palatine, issued a warrant authorizing him to sit as Judge of the Vice-admiralty Court.<sup>4</sup>

Another great trouble to the Carolinians had been growing during Governor Craven's administration. While the Indians had arisen upon the frontier in the country, and the Governor was engaged in repelling their invasion from that direction, the pirates again appeared upon the coast. During Queen Anne's War, both Spaniards and French had twice overrun and plundered the Bahama Islands, and the Island of Providence was practically deserted by the English inhabitants. The population of Providence had always been of the most unruly and turbulent character, living in a great measure upon the wrecks on the island, which they were accused, indeed, of occasioning as well

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 187.

<sup>2</sup> *Ibid.*, 164.

<sup>3</sup> *Ibid.*, 163.

<sup>4</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 231.

as plundering.<sup>1</sup> Trott himself had been Governor of the island, and knew well its character. Indeed, he had been charged by Randolph with conniving at these practices. During the war with France and Spain, Providence became the chief rendezvous of a body of desperate men, who were accustomed to push out into the ocean, or cruise in the Gulf of Mexico and prey on commerce. For five years they held their robber reign, and plundered and took vessels of every nation without distinction. They had their hiding-places along the coast of both Carolinas. The mouth of the Cape Fear was a place of refuge and resort, second only in importance to Providence.<sup>2</sup> It was estimated that they numbered 1500 men on the coast, 800 of whom had their headquarters at Providence. They swept the coast from Newfoundland to South America, plundering their prizes at sea, or carrying them into Cape Fear or Providence as best suited their convenience.<sup>3</sup>

Upon the address of the House of Lords the King had dispatched Captain Woodes Rogers with a naval force to Providence, to break up the nest of pirates there. This, as we shall see, Rogers promptly succeeded in doing. But their suppression in the Island of Providence did but transfer large numbers of them to Carolina.

The commerce of Carolina had in the last ten years greatly increased. It had, indeed, more than doubled. In 1706 the number of vessels entering the port of Charles Town had been 68. In 1716 it had been 162.<sup>4</sup> The commerce of the port had been for some years free from piratical interference, until 1715, when many captures

<sup>1</sup> *British Empire in Am.*, vol. II, 422.

<sup>2</sup> Hawks's *Hist. of No. Ca.*, vol. II, 272.

<sup>3</sup> *The Carolina Pirates* (S. C. Hughson); *Johns Hopkins Univ. Studies*, 12 series, V, VI, VII, 59.

<sup>4</sup> See Appendix VIII.



of vessels in the Carolina trade had been made, and it became evident that unless some immediate action was taken the commerce of the colony would be destroyed. While the agents of Carolina in London were pressing, now the Proprietors, and then the Royal Government, for assistance in resisting Indians, the pirates had begun again their depredations on her commerce; and from neither Proprietors nor government could assistance of any consequence be secured.

. Whether or not there was any truth in Randolph's charges as to Trott's complicity with the pirates while Governor of Providence, he acted now with great vigor against them. A number having been taken, a court was at once organized for their trial. Fortunately, Trott had not only the Proprietors' commission as Judge of Admiralty, but he had also a commission from the King. No question could possibly arise, therefore, as to his jurisdiction. Among the English statutes under his compilation re-enacted here in 1712 was that of 27 Henry VIII, c. 4: "*For Pirates and Robbers on the Sea.*" In adopting the English statutes, it had been provided by this act of 1712 that the Governor and Council of the province should have all the power and authority relating to the execution of the enumerated statutes as by the same were given and possessed in England by the Lord Chancellor or the Lord Keeper of the Great Seal of England; and under the statute of Henry VIII pirates were to be tried by commission under the King's Great Seal directed to the Lord Admiral or to the Lieutenant or Deputy and to three or four such other substantial persons as should be named by the Lord Chancellor.<sup>1</sup> In pursuance of these provisions, Governor Daniel and his Council, — George Logan, Francis Yonge, and Samuel Eveleigh, — on the 27th of November,

<sup>1</sup> *Statutes of So. Ca.*, vol. II, 413, 465.

1716, issued a commission for the trial of the captured pirates.<sup>1</sup> A grand jury was organized and an indictment was given out against the prisoners, nine in number, six of whom were from England, one from Boston, one from New York, and one from Williamsburg, Virginia. The grand jury returned a true bill, but upon the trial the petit jury failed to convict. Another party were, however, soon after captured, and brought to trial before the court on the 3d of July, 1717, and, as we shall see, were convicted and hung.<sup>2</sup>

<sup>1</sup> By this commission the following assistant judges were appointed: Captain Thomas Howard, commander of his Majesty's ship the *Shoram*; the Hon. Charles Hart, one of the members of the Council in South Carolina; the Hon. Thomas Broughton, Speaker of the House of Assembly in South Carolina; Arthur Middleton, Esq., and Ralph Izard, Esq.; Captain Philip Dawes; Captain William Cuthbert, commander of the *Fortune* frigate; Captain Allen Archer, commander of the brigantine *Experiment*; and Samuel Deane and Edward Brailsford, merchants.

<sup>2</sup> *Admiralty Book, U. S. Dist. Ct. of So. Ca., A. and B.*

## CHAPTER XXV

1717

GOVERNOR CRAVEN, upon his arrival in England, attended upon the Lords Proprietors, who desired him to continue his office and to return to Carolina, but he stated that his affairs in England were of such a nature as to prevent his doing so, and requested to be excused, and that their Lordships would nominate another Governor to succeed him. The Proprietors thereupon agreed to nominate Robert Johnson, son of Sir Nathaniel, as Governor, and the Secretary was instructed to prepare letters for the Royal approbation of the nomination. They ordered that a part of Mr. Johnson's instructions should be to make inquiry into the complaints of Governor Spotswood; that all arrears then due the Lords Proprietors and growing rents to the 1st of May, 1718, be given to the use of the public as the Governor and Council should think proper to appropriate. They also offered Governor Craven a present of £1000 for his services.<sup>1</sup>

It was not until April 30, 1717, that his Majesty's approval had been obtained and all other preliminaries arranged so as to allow the Proprietors to issue Mr. Johnson's commission. By his instructions Governor Johnson was, immediately on his arrival, to summon Alexander Skene, Nicholas Trott, Thomas Broughton, Charles Hart, Francis Yonge, Samuel Wragg, and

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 188.



(James) Kinloch to be the Council; liberty of debate was to be allowed and votes upon all matters that should be debated. No member of the Council was to be suspended without good and sufficient reasons, which were to be at once forwarded to England. The Receiver General was to be aided in getting in fines and forfeitures. Their Lordships had received complaints of the exorbitant rates of bullion in Carolina, which they alleged proceeded only from an act to which they had always evinced great repugnance, called the "bank act." They recommended the reduction, as much as possible, of paper credit. Inventory was to be taken of all arms, ammunition, and stores, and storehouses were to be established throughout the province. Governor Johnson was to receive, as salary, £400 per annum, payable quarterly; a full moiety of which in the event of his death or absence was to be paid to whomsoever might be appointed to the temporary administration of the government. Upon other points the instructions were the same as to previous Governors.<sup>1</sup>

A most curious and anomalous condition of affairs now existed as to the relations between the colony, the Proprietors, and the Royal Government. The Governor and Council were still in constant formal communication with their Lordships the Proprietors. But behind this regular channel of communication their Lordships were in private correspondence with Chief Justice Trott. On the other hand, while the Governor, Council, and Assembly had their regular agent, Landgrave Kettleby, in London to look after the bounties due and the affairs of the colony generally, under the instructions of a committee of correspondence of the Assembly itself, that body had also their special agents, Messrs. Boone and Berresford, there directly

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 165.

appealing to the Royal Government, in which appeals, still more to complicate matters, Deputy Governor Daniel himself was joining,<sup>1</sup> although he had objected to the appropriation of £2000 by the Assembly for Boone and Berresford, upon the ground that it was using the public funds to destroy the charter of the Proprietors.<sup>2</sup>

Thus, while the Proprietors were preparing their instructions for Governor Robert Johnson, Messrs. Boone and Berresford were laying before his Majesty "The humble address of the Representatives and inhabitants of South Carolina," in which the memorialists say :<sup>3</sup>—

"In our last humble address to your Majesty we took the liberty to inform your Majesty of the deplorable circumstances we then labored under, without any probability of seeing an end to our calamities. Our troubles instead of coming to a period, daily increase upon us, and we now see ourselves reduced by these, our misfortunes to such a dismal extremity, that nothing but your Majesty's most Royal and gracious protection (under God) can preserve us from ruin. Our Indians continue committing so many hostilities and infesting our settlements and plantations to such a degree, that not only those estates which were deserted at the breaking out of the war, cannot be resettled, but others are daily likewise thrown up to the mercy of the enemy to the impoverishment of several numerous families.

"We farther take the liberty to inform your Majesty that notwithstanding all these miseries, the Lords Proprietors of this Province instead of using any endeavours for our relief and assistance, are pleased to term all our endeavours to procure your Majesty's Royal protection the business of a faction and party. We most humbly assure your Majesty that it is so far from anything of that nature, that all the inhabitants of this Province in general are not only convinced that no human power but that of your Majesty can protect them, but earnestly and fervently desire that this once flourishing Province may be added to those under your happy protection."

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 238.

<sup>2</sup> *Hist. Sketches of So. Ca.* (Rivers), 276, note.

<sup>3</sup> *Ibid.*, Appendix, 464.

This address to the King was signed by the Speaker and the rest of the members attending the Assembly.<sup>1</sup> It was referred by his Majesty through Mr. Secretary Addison to the Board of Trade; and, on the 10th of May, 1717, Mr. Boone and Mr. Berresford, having been sent for, attended before the board and were questioned in regard to its representation. They said they had lately received and presented to Lord Carteret a letter from the Governor and Council to the Lords Proprietors, dated January 26, of which they produced a duplicate, which was read and copy taken. They stated that, upon the application to Lord Carteret, the Palatine, and presenting to him a printed "case" of the condition of the province, his Lordship had promised to lay the condition of affairs before his Majesty and to desire the necessary supplies, which they believed his Lordship had done. Being asked what number of men they thought necessary for subduing the Indians, and how long they proposed the men sent should continue in Carolina, they declared their opinion that not less than 600 would be effective, 200 of whom might be disbanded in twelve months, 200 in eighteen months, and 200 in two years after their arrival in Carolina. Mr. Boone and Mr. Berresford added that Lord Carteret had declared to them his willingness to surrender his share in it if the not doing it were such an obstacle as to hinder the relief of the province.

Lord Carteret appeared before the board on the 31st,

<sup>1</sup> "Signed by Mr Speaker and the rest of the members attending the service of the House of Commons

GEO. LOGAN. Speaker

David Durham. Ra: Izard. Benj: De La Conseillere. Thos: Summers. William Gibbon. Charles Hill. Thos Lynch. Wa: Izard. Jonathan Drake. Richard Harris. John Williams. Thomas Waring. John Godfrey. Thomas Satur. John Beamor. Arthur Hall. Hugh Hext. Roger Moore. John Woodward. Richard Butler. James Cochran. John Russ. Tho<sup>s</sup> Townsend

"Signed likewise by the rest of the inhabitants of this Province."



but he did not confirm what Mr. Boone and Mr. Berresford had said about his generous offer. On the contrary, he questioned the right of Messrs. Boone and Berresford to represent the Assembly in South Carolina, that body having been dissolved. But the persons styling themselves such, he admitted, had desired him to present their paper to the King, which his Lordship had done. Since that, however, he had had private letters from Carolina — no doubt from Trott — which brought advice of a peace having been made with the Indians, which his Lordship observed was probable, since the Yamassees, the first authors of the war, were cut off. He then went on to belittle the whole matter. He said there had never been a regular war with the Indians in Carolina. Many settlements which had been too scattered and remote from each other had been destroyed at several times; but the whole colony was never in such danger of being lost as was suggested. He called attention to the fact that the Assembly had made no provision for the support of the men they asked for; that the Lords Proprietors would be glad to have more men sent thither in any manner, but it could not be expected that his Majesty should send and maintain them there; that the province may have been run in debt, as alleged, but that the Lords Proprietors had applied all their profits towards its support, and had purchased and sent 250 muskets, which they had heard had actually arrived in Carolina. He added he did not doubt but when Colonel Johnson, the present Governor, arrived, he would find all things quiet in the province; his Lordship, therefore, desired the board to suspend their report to his Majesty until fresh advices should arrive from thence.<sup>1</sup> This request of Lord Carteret appears to have been effectual for the time.

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 280–282.

While these discussions between the agents of Carolina, the Proprietors, and the Board of Trade were taking place in England, the General Assembly had again met in Charles Town, and, under Daniel, the Deputy Governor, were proceeding with the legislation of the province. The salary of Colonel Alexander Parris, the Public Receiver, was raised to £400, and he was authorized to appoint a deputy.<sup>1</sup> An act amendatory to the election law was passed, whereby the qualifications of voters and members of the Commons were raised. The voter was required to have been a resident of the parish in which he offered to vote, and not merely a resident of the province, six months before the election, and to have a freehold of 50 acres of land, or to pay taxes for the sum of £50 current money of the province. The representative was required to be either a free-born subject of the kingdom of Great Britain, or a foreign person naturalized by act of Parliament of Great Britain; to have been twelve months resident in the parish he was chosen for, and to have a freehold in that parish of 500 acres of land, or to be worth £1000 in leasehold or in cash or stock. From these provisions the voters and representatives from the deserted parishes of St. Bartholomew's and St. Helena were, however, exempted. There was a proviso allowing one to be elected a representative for a parish who owned a settled plantation of 500 acres, with ten negro slaves living on the same under the care of at least one white man, in any other parish of the same county. No person receiving any salary or perquisite from the Lords Proprietors was qualified to sit as a member of the Commons.<sup>2</sup> In 1706 the building of wooden frame-houses in the town had been declared a common nuisance and prohibited, but now it was represented that bricks were not always to be had

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 1.

<sup>2</sup> *Ibid.*, 3, 4.

but at such excessive rates as prevented the building up of waste places, and the act was repealed. Houses were allowed to be built of wood, provided the hearths and chimneys were of brick or stone. The act of the year before, for the encouragement of the importation of white servants, was found, so far from answering the purpose designed, to be "the chiefest discouragement" of their importation, and was also repealed.<sup>1</sup>

In April the province was further alarmed by news of activity on the part of the pirates in the West Indies; and it being probable that the *Shoram*, the war vessel that had come to Charles Town during the Indian troubles, would shortly be ordered elsewhere, the Commons House addressed the Deputy Governor and his Council upon the subject. They had received information, they said, that the Governor of St. Augustine had been advised by the Governor of Havana to be on his guard, as the pirates on the Bahama Islands designed to attack them. The Commons said that they did not suppose that such persons as the pirates had any regard to or made any difference or distinction between the people of any nation whatsoever, and they ought to provide for the safety and defence of the inhabitants of this province. The Commons conceived it to be proper to address Captain Howard, commander of his Majesty's ship, the *Shoram*, to desire him to stay some time longer with his ship, so as to deter the pirates coming here. They therefore desired the Governor and Council to appoint a committee of their House to form a committee of the Commons in a conference to draw up such an address to Captain Howard. For some reason the proposition was not acceded to by Daniel and his Council, and the *Shoram* sailed away to Virginia with orders to pro-

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 6, 7.



ceed without delay to England, just at the time when there was most urgent need for her presence on the coast.<sup>1</sup>

But though Governor Daniel did not detain the *Shoram*, he promptly acted when, soon after, another party of pirates were taken. These were Stephen James de Cossey, Francis de Mont, Francis Rossoe, and Emmanuel Erandos, who were charged with taking the vessels the *Turtle Dove*, the *Penelope*, and the *Virgin Queen*, in July of the previous year, off the coast of Jamaica. Governor Daniel and his Council immediately issued a commission, appointing assistants to the Judge of Admiralty to try these men. The trial began on Monday, the 24th of June, and continued during the week. On Saturday, the 29th, the parties were convicted. They were sentenced on the 3d of July, and were executed.<sup>2</sup>

Notwithstanding the disastrous results of the attempted Scotch colony at Port Royal under Lord Cardross, and the immediate rising of the Indians at the instigation of the Spaniards upon the settling of the town of Beaufort, another proposition now came from Scotland to establish a colony between St. Augustine and the Carolina settlement. Sir Robert Montgomery proposed to the Proprietors to carry over at his own charges several families for settling and fortifying the most southern part of the

<sup>1</sup> *The Carolina Pirates* (S. C. Hughson); *Johns Hopkins Univ. Studies*, V, VI, VII, 64; *Commons Journal*.

<sup>2</sup> *Carolina Pirates*, *supra*, 65; *Admiralty Book*, U. S. Dist. Ct. of So. Ca., A and B.

The commission named as assistants to the Judge of Admiralty: *Charles Hart* and *Francis Yonge*, two of the members of the Council; the Hon. Alexander Skene; Hon. George Logan, Speaker of the Lower House of Assembly; Hon. Colonel Thomas Broughton; Ralph Izard, Esq.; *Captain Philip Dawes*; *Captain William Cuthbert*, commander of the *Fortune* frigate; *Captain Michael Cole*, commander of the *Sarah* frigate; *Samuel Dean*, *Edward Brailsford*, and Charles A. Hill, merchants. Those whose names are in italics sat in this court.

province of Carolina beyond the Savannah, — thus to form a barrier to any sudden incursion of the Indians, — on the condition, however, that Sir Robert should be the Governor for life. The new province — for such, in fact, it was to be — was to consist of the territory between the Savannah and Altamaha rivers, and was to be known as the Margravate of Azilia.

The proposition was submitted by the Proprietors to his Majesty for his concurrence ; for they now realized the delicate relations in which they stood to the Royal Government and were afraid to take such a step without the Royal approval, lest it might be construed as a violation of their charter. His Majesty referred the matter to the Board of Trade. To this board it was represented that the proposed colony would be a barrier against both Spaniards and Indians ; that the commodities to be raised, varying from those then produced by the English plantations, would increase the revenue of the customs ; would be to the advantage of the British trade to the Mediterranean ; would be a check to the encroachment of the French ; and would plant an honest English colony in the room of the horde of pirates at the Bahamas. The Attorney General's opinion was obtained that there was nothing prejudicial to the interests of the right of the Crown in the proposition, but he doubted whether the power of government granted to the Proprietors could be divided by them so as to exempt the new province from liability to the laws of South Carolina, which were made for the whole province. He suggested that it would be better for the Proprietors to surrender their powers of government to his Majesty in the territory to be erected into a new province, reserving to themselves the property in the lands,<sup>1</sup> a similar arrangement to that which then existed

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 232, 233, 234, 256.

in Maryland in regard to the Baltimore patent.<sup>1</sup> This the Proprietors were probably unwilling to do, fearing that it was but an entering wedge to be inserted in their grant to the province at large. The suggestion of the Attorney General was not accepted by the Proprietors, and the scheme languished, but was apparently not altogether abandoned when the Proprietary Government was overthrown four years after. Then the Proprietors found themselves more willing to listen to the suggestion of the Attorney General. In 1720 we find Colonel John Barnwell, who was sent to England, as we shall see, by the Convention which overthrew the Proprietary Government, assisting the Proprietors with his information in regard to this territory and recommending the scheme. In 1720 he published a pamphlet in London, showing the title of the Proprietors to the territory and their right and authority to make the grant of the land contained in it, and in a letter written at the Carolina Coffee House, addressed to Sir Robert Montgomery, offers his testimony to the importance of his design and gives a glowing description of the country, especially of the islands on the coast. He writes :—

“As to the four Islands which you have assign’d to the Purchasers who are concerned in your settlement, they are called *St. Simon, Sapella, St. Catarina* and *Ogeche*, to which last before I came thence I left the Name of *Montgomery*. You have given them a general Denomination which I think they may well deserve, of the *Golden Islands* for as to convenient Pasture, pleasant Situation profitable fishing and fowling they surpass any thing of that kind in all *Carolina*,” etc. :<sup>2</sup>

The project fell through, and it was left to Oglethorpe,

<sup>1</sup> *Maryland*, Am. Com. series.

<sup>2</sup> *An Account of the Golden Islands*, by John Barnwell, London, 1720.



fifteen years after, to establish the colony of Georgia in the place of Sir Robert Montgomery's Azilia.

In the meanwhile Governor Robert Johnson had arrived at Charles Town, and assumed the government. He met the General Assembly for the first time October 29, 1717. Unfortunately, however much personally esteemed his father, Sir Nathaniel, and himself were, he had come to sustain the tottering powers of the Proprietors, whose own folly and greed were to baffle his efforts and overcome whatever influence he might otherwise have exercised. Still more unfortunately for the peace and stability of his rule was the influence of Trott and Rhett, who stood before the people as more really, if less officially, the representatives of the Proprietors than himself. His first communication to the Assembly — speech as it was now termed — arrayed the Commons at once against him.

"Mr Speaker and Gentlemen,"<sup>1</sup> he said, "I have had the honor to be appointed your governor. I think it a peculiar happiness I am not a stranger to you, and that I have for many years been privy to all the public transactions that have passed both in England and here relating to the country which enables me the better to judge of your interests in order to be serviceable to this province. And I flatter myself I have had justice done me to be esteemed one that has been desirous and ready upon all occasions since my being in England to promote the welfare and prosperity of it to the utmost of my ability without partiality or private interest whenever I had an opportunity. And I hope a mutual confidence in each other's good intentions to promote the public welfare will be the consequence of our acquaintance."

To all of these, no doubt, the Commons cordially responded, for the Speaker was much beloved. But now he came to the point of difference: —

"I am obliged for your sakes," he continued, "to give you my opinion touching the disrespectful behaviour that has of late been shown to the Lords Proprietors in not consulting them in the applica-

<sup>1</sup> *Commons Journal* (MSS.).

tions and remonstrances in England. Such proceedings were very unjustifiable and impolitic. It disconcerted the measures their Lordships had taken of employing their utmost zeal and interest to serve you. And you must allow had they been consulted from time to time they were better judges than you can be how to make a proper application. Their Lordships notwithstanding the emissions from hence and vain attempts upon their prerogatives like good christians and patriots commiserated the calamity this province has laboured under, and whenever they could understand what your requests were, have more than once (particularly our Palatine) personally laid your remonstrances and supplications before his sacred Majesty. If it be supposed their charter is a bar to your relief, it is a mistake. His Majesty and his Parliament are too just to divest their Lordships of their properties without a valuable consideration," etc.

"Let me therefore Gentlemen recommend to you," said the Governor, "a dutiful and respectful behaviour to them that we may merit their interest favour and protection which you may then be assured of, an earnest of which their Lordships have already shown by their donation to the public of all the arrears that are due to them, whether from lands sold or for rent and all growing rents that shall become due to the first May 1718, the charges of the civil government only deducted."

He recommended several matters to their immediate consideration: the providing for the defence of the country for the ensuing year, the acts upon the subject being about to expire; the repairing of the fortifications of Charles Town and Johnson Fort. He advised them to find some more effectual method to prevent fraud in packing pitch, and for the better hulling and cleaning of rice, for want of which these commodities bear but a low price in proportion to those of other countries at home, *i.e.* in England; to consider the deplorable condition the public credit, trade, and the colony in general are reduced to by the currency of so great a quantity of paper money, and to fall on some sudden and effectual means to remedy the same.

"The Lords Proprietors," the Governor said, "expect



their former price of *three* pounds per hundred acres of land, according to an act of 6 of Queen Anne. The great disproportion the money now has, has obliged me and my Council to give orders to the Receiver General to take *twelve* pounds per hundred acres being now but an equivalent. That order I hope will be but of short duration since I promise myself you will concur in some measures to make the money better."

He advised them to make the acts of Assembly more generally useful "by their being methodized fit for the press" and sent to England to be printed; to consider seriously of the very great rates of all provisions in Charles Town, to remedy which he advised the Assembly not only to regulate the prices of butcher's meat in the town, but also to lay a duty on the exportation of all provisions, rice only excepted; and to take off any duty then on any provisions imported. This, he added, will enable us, if there should be occasion, to assist Sir Robert Montgomery or any other new settler. He wished a state house and public prison built, for want of the latter of which he said criminals and debtors escaped daily, to the impoverishment of creditors, to the great detriment of trade and encouragement of offenders, to the eluding of justice, and endangering the public peace.

But, above all, he recommended to the Assembly to let true religion and virtue be their constant care, which he doubted not would naturally induce them to bring in a bill for the better support and maintenance of the clergy, and thereby give sufficient encouragement for good, pious, and learned men to come among them.

The committee appointed to answer this address were instructed by the House to "touch slightly (but not by way of argument or submission) on what the last two Assemblies had done heretofore in addressing his Majesty to take the province under his protection. And as to the



donations of the Lords Proprietors to the said province that they take notice of the design of the House to consider thereof at the proper time.”<sup>1</sup> They did not regard the taking £12 for £3 as a donation. But if there were right and justice in any matter on the part of the Proprietors, it was surely in this. They had agreed to let their lands for £3 per hundred acres at a time when the value of the pound in currency was equal, or nearly so, to the pound sterling.<sup>2</sup> They were objecting to the emissions of paper money in Carolina on general public grounds, to which the Governor’s speech called the attention of the Assembly; they certainly were not called upon themselves to take the objectionable paper which now would pass only at the rate of four to one—that is to say, twenty shillings for five<sup>3</sup>—in payment of the pound for which they had bargained. But the House was in a quarrelsome mood, and sneered at the munificence of the surrender of their arrears by the Proprietors, which, by the Governor’s notice, was now limited to extend only to the 3d of May, 1716. The Assembly declined the donation. Governor Johnson was anxious that they should accept it, and desired them to order a rent-roll made for the benefit of the Proprietors. “As the Assembly is to pass wholesome laws,” he said, “even to private persons, much more to the Lords Proprietors who are our masters!” The Assembly took offence at this and replied: “We cannot but approve of your Honor’s care of these Lordships’ interests who are, as you say, *your* masters.” “If you look over their charters,” was the answer, “you will find them to be *your* masters likewise.”<sup>4</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 281; *Commons Journal* (MSS.).

<sup>2</sup> *Statutes of So. Ca.*, vol. II, 709.

<sup>3</sup> *Hist. Sketches of So. Ca.* (Rivers), 280, note; *Council Journals* (MSS.).

<sup>4</sup> *Ibid.*, 281.

Among the measures for the defence of the colony which had been adopted immediately after the raid of the Spaniards and the destruction of Lord Cardross's colony, was the passage of an act providing for the maintenance of a store of powder. In those days all merchant ships, as well as others, were more or less armed for their defence against pirates, and carried a supply of ammunition. The act levied a tax in kind upon powder from every ship entering a port of the province; and in case of failure to deliver this tax in kind, the ship was assessed £9 for every ton which the ship measured. The Governor was authorized by this act to appoint a person to receive the powder, or its equivalent in money. The act was amended from time to time, reducing the amount of the tax, but continuing the plan for maintaining a store of powder for emergencies. But as in the case of the Receiver General in his father's administration, the Assembly had taken the appointment of this officer to themselves. Governor Johnson, determined to gather in as far as possible all powers yielded to the Assembly in former administrations, took the opportunity of the appointment of this officer to try conclusions with that body, and to regain the ground lost for the Proprietors on that occasion. The House had elected Colonel Michael Brewton to be powder-receiver. "The keys of the magazine," said Johnson, "shall be kept only by the officer appointed by the Governor who is military chief, and grants commissions; the House shall forthwith order the keys delivered to Maj. Wm. Blakeway whom he has commissioned commander of the fortification and to take charge of the magazines which office cannot be separated from that of powder receiver." The House refused to proceed in business if this demand was insisted upon, and prepared

an advertisement to be made public in such a case. The Governor partly yielded, and proposed for the sake of peace that both officers might be appointed. "My officer shall keep the magazine and give receipts to your officer for all powder delivered into his keeping." "What is the use," replied the House, "of a powder-receiver who don't keep the powder?" "But I insist on keeping it," said Johnson, "for I am his Majesty's the King's Lieutenant." The following advertisement was immediately fixed up at the watch-house by order of the Assembly : —

"Whereas in and by an act entitled an act declaring the right of the House of Commons for the time being to nominate the Public Receiver and duly ratified in open Assembly the 5th day of July 1707, among other things therein contained, it is enacted that the power right and authority of nominating and appointing the public receiver, and comptroller, powder receiver and all such officers who receive a settled salary out of the public treasury of this province, shall always remain and be solely in the disposal of the House of Commons for the time being, who shall put out, call to an account, and put in place from time to time all such officers according to their discretion; and whereas this present House of Commons did on Saturday the 7th of December instant nominate and appoint Col. Michael Brewton to be powder-receiver in this province, and in that station to act and do in all things as the laws thereof now or hereafter to be in force shall direct and order him : — These are therefore to give notice and require all masters and commanders of ships and vessels, liable by law to pay any powder to the powder-receiver, who shall after the date hereof clear out and depart this province, that they pay the powder due and payable according to law for the several respective ships they shall happen to be masters or commanders of, unto Colonel Michael Brewton appointed powder-receiver as aforesaid, and to no person else inhabiting in the same whatsoever, as they will answer the contrary by being prosecuted as the law directs. Signed by order of the House. George Logan Speaker." <sup>1</sup>

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 282, 283.



But notwithstanding these disagreements between the Governor and Commons, some legislation was accomplished at this session. Above all things, the Governor had recommended to the care of the Assembly the maintenance of true religion and virtue and the support of the clergy. To this the Assembly responded without religious controversy. They erected another parish in the upper part of St. Andrew's, to be called St. George's,<sup>1</sup> and passed an act for the further encouragement of the clergy of the province by advancing their salaries, by which the rector of St. Philip's, Charles Town, was given an additional salary of £100 per annum, and the rectors of the other parishes £50.<sup>2</sup> An elaborate act for the better governing and regulating of white servants was also enacted.<sup>3</sup> By another, the Governor was empowered to enlist 140 men, to be drawn from the companies throughout the province, and to organize them for its defence.<sup>4</sup> An additional act to that for laying an imposition on liquors, goods, and merchandise, of the 30th of June, 1716, was passed, by which the duty of £30 on each slave brought into the province was continued and certain doubts in regard to the same were removed. A new feature of the act, which was to be another cause of difference with the Proprietors, was that all liquors, goods, negroes, wares, merchandise, imported into the province in any ship or vessel owned by the inhabitants of the province and built in the province, were declared free of all duties ; and all such goods, etc., imported in ships or vessels built here, whose owners lived out of the province, should be liable to but half duties ; and goods imported in ships or vessels built out of the province, but owned by inhabitants of it, were liable to but three-

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 9.

<sup>2</sup> *Ibid.*, 11.

<sup>3</sup> *Ibid.*, 14.

<sup>4</sup> *Ibid.*, 23.

quarters duties.<sup>1</sup> An additional act was also passed to continue the currency of the bills of credit.<sup>2</sup>

The pirates were again on the coast and demanded the attention of the new Governor.

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 32.

<sup>2</sup> *Ibid.*, 34.

## CHAPTER XXVI

1717-18

BEFORE sending Captain Rogers and his small fleet to New Providence, the King had issued a proclamation promising pardon to all pirates who should surrender themselves within twelve months. This proclamation was published throughout Carolina. On the 3d of December, 1717, Governor Johnson sent in a message to the Commons upon the subject.

“His Majesty,” he said, “being pleased to issue out his Royal Proclamation extending his pardon to all pirates that shall lay hold on the same, and surrendering themselves according to the time limited in said proclamation; and we having several of our inhabitants that unwarily and without due consideration have engaged in that ill course of life and are now resident at the Bahama Islands, and other places adjacent, I think it a duty incumbent on me, with all speed to send his Majesty’s proclamation thither to let our people see that they may return hither again in safety to us, if in time they embrace his Majesty’s royal favor; therefore some proper person must be thought of to carry this proclamation to them; and Col. Parris being willing to undertake the same (who is very well known to all the inhabitants of this Province) if you can spare him from the Public business; I shall give him my instructions accordingly.”<sup>1</sup>

<sup>1</sup> *Commons Journal* (S. C. Hughson), *Johns Hopkins Univ. Studies*, 2 series, V, VI, VII, 67. In the following account of the operations of



There is no record that Colonel Parris ever went to the Bahamas with the King's proclamation, or of the acceptance of its offers by any of the inhabitants of Carolina, who had so "unwarily" engaged in that ill course of life; nor is there any record of the numbers who had left the province for that purpose. There is no reason to believe that there were many. Governor Johnson speaks of them as "several," which may be any small number more than two; but there were not enough to arouse sufficient interest to induce further action in regard to the matter of their pardon. The author of the essay upon the subject to which we have had repeated occasion to refer is mistaken in supposing that Governor Johnson referred to Carolinians in his communication to the Proprietors, in which he complains that the proclamation of peace had worked no good effect upon the pirates, as they shortly returned to their evil courses. The Governor was, in this letter, speaking of the pirates generally; there is no allusion in this paper to any from Carolina. In a community in which there were constantly new-comers, adventurers from all parts of Europe and America, it would have been strange if there had not been some ready to join in the wild life of the buccaneers, which had, until so recently, been encouraged by the powers that were now attempting to suppress them. There were no doubt some such, as observed in the introductory chapter, but the title of the essay to which we have referred, to wit, *The Carolina Pirates and Colonial Commerce*, is misleading. Pirates infested the coast of Carolina; but they were in no sense Carolina pirates. Of the forty-five who constituted the

the pirates on the Carolina coast, the resistance of the colony and their ultimate defeat, the facts are taken generally from this most exhaustive study of the subject by Mr. Hughson, and his statement often followed with but little change in phraseology.

party taken in 1699, there were Englishmen, Frenchmen, Portuguese, and Indians, but no Carolinians; among the thirty-eight pirates seized and brought into Charles Town for trial 1716-18, there were but three who claimed to have been formerly inhabitants of the province. Upon their trials one of these was acquitted; two were among the convicted. Judging from the citizenship of those who were taken and tried, and most of whom were executed, it would have been more in consonance with the facts to have spoken of them as British pirates on the coast of Carolina. They came from England, Scotland, Ireland, and the West Indies.

Captain Rogers arrived at New Providence in July, 1718, and took possession of the colony for the Crown. He found a large number of pirates there, most of whom surrendered and took the oath. But one, Charles Vane, refused to do so. He pursued a more desperate course. When he heard that Rogers had arrived off the bar, he wrote him a letter offering to surrender, on the condition that he would be permitted to dispose of what spoil he had in the manner that suited himself. Receiving no assurances, he determined to escape. In crossing the bar, he was met by two of Rogers's vessels, with whom he exchanged shots, and, after several exciting adventures, succeeded in getting safely to sea with ninety men, in a sloop belonging to one of his officers named Yeates, and made for the Carolina coast, where he engaged in several piratical exploits. While the action of the British authorities did much to relieve the West Indies, it greatly aggravated the situation in Carolina, at the instance of the colonists of which the expedition had mainly been undertaken. Finding themselves driven out from New Providence and the Bahamas generally, the pirates established themselves on the North Carolina coast; and, before many months

had passed, they swarmed into the Cape Fear and Pamlico rivers in greater numbers than the government of that weak colony could possibly oppose.<sup>1</sup>

While Rogers was on his voyage to New Providence, early in June, Edward Thatch,<sup>2</sup> who, under the sobriquet of "Black Beard," had spread terror along the entire North American coast, suddenly appeared off Charles Town with a powerful equipment, and began a series of most flagrant outrages. It is said that he had come in under the King's proclamation in January, and surrendered to Governor Eden of North Carolina; but the temptations of the old free life proving too strong, before the end of the winter he again fitted out from North Carolina, and was once more harrying the coast, and capturing vessels of all nations. It was during one of these cruises that he visited the Bay of Honduras, where he met Stede Bonnet, late of Barbadoes, and the two returned to Carolina together, taking numerous prizes by the way. From the captured vessels he recruited his force so that by the time he reached the South Carolina coast he was in command of a fleet consisting of a ship of more than forty guns, and three attendant sloops, on board of which were above 400 men.

On the 18th of June, 1718, Governor Johnson writes to the Proprietors: "About fourteen days since, four sail appeared in sight of the town, immediately took the pilot boat which was stationed on the bar, and in a few days took eight or nine outward-bound vessels with several of the best inhabitants of Charles Town on board."<sup>3</sup> Among the passengers thus taken was Samuel Wragg, a member

<sup>1</sup> S. C. Hughson, *Johns Hopkins Univ. Studies*, 2 series, V, VI, VII, 66.

<sup>2</sup> Also spelled "Teach," but Hughson, whom we closely follow in this account, adopts the spelling in the text.

<sup>3</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 236.



of the Council of the province, and his son William, then but four years of age, who became one of the most distinguished men in the American colonies, and to whose memory there is a tablet in Westminster Abbey. How the pirates became aware that they had made so distinguished a prisoner, says Hughson, is not known; but, having ascertained the fact, they determined to make the best of their good fortune. At this time the fleet was in need of certain medicines, and Thatch directed his surgeon to prepare a list of the desired articles, and sent him to demand them of Governor Johnson. Arming a boat, he sent it up to the town in command of one of his officers named Richards. The officer was accompanied by a Mr. Marks, a captured citizen who was ordered to lay the situation before the Governor, and to inform him if the necessary supplies were not immediately forthcoming and the men permitted to return unharmed, the heads of Mr. Wragg and the other Charles Town prisoners would be sent to him. Marks was given two days to accomplish his mission, and the prisoners, who had been acquainted with the demand, and the penalty of its refusal, awaited, it may well be imagined, with the most intense anxiety the return of the embassy. Two days passed, and the party did not return. Thatch suspected that his man had been seized by the Governor, and notified Wragg that the other prisoners and himself should prepare for immediate death. He was persuaded, however, to stay this cruel order for at least a day, and, while awaiting the expiration of that time, a message was received from Marks that their boat had been overturned by a squall, and that, after many difficulties, they had succeeded in reaching Charles Town. This explanation satisfied Thatch for a while, and he gave the prisoners the freedom of the vessel until the third day, when, losing patience, he again swore that he

would be revenged on the colony for the supposed arrest of his men, by putting Wragg and their other captive to death. The story is told by Johnson in his *History of the Pirates*, that, in order to save themselves, the prisoners agreed to pilot the fleet into the harbor and assist Thatch in battering down the town; but Hughson, in his study of the subject, very properly discredits the story. Wragg's high character would, of itself, be a sufficient ground for refusing it belief unless substantiated by higher evidence than that of the pirates themselves. It is not improbable that the pilot captured off the bar would have been forced to bring in their ships had the pirates so desired; but it is altogether improbable that Thatch would have ventured his forty guns against the 100 which lined the fortifications of the town, and risked his vessels in the harbor where Governor Johnson and Rhett would have had him under such disadvantage. He could enforce his terrible threat upon the lives of valued citizens without danger to himself, as he lay outside the bar; to have come in would have lessened his power over his prisoners, and endangered his own safety.

In the meantime the greatest consternation prevailed in the town. The friends of the captives were strong and numerous. Would the Governor sacrifice their lives rather than allow these people, even though they were pirates, a few dollars' worth of medicines? Might he not now save the lives of valued citizens, and afterwards avenge the insult to the province? Governor Johnson convened his Council and laid the situation before it. The demands of the pirates were acceded to. The medicines were prepared without delay, and in a few hours Marks, accompanied by his guard, was on his way to the bar. A large quantity of rich spoil having been secured from the captured vessels, Thatch sent Wragg and the rest of the

prisoners ashore in a half-naked condition. After suffering numerous hardships they made their way back to Charles Town, glad to escape with their lives. Thatch is said to have secured \$6000 in specie from Wragg alone.<sup>1</sup>

From Charles Town Thatch went to North Carolina, where he remained for some time in comparative idleness; then, resuming his course, his depredations were extended up the coast as far as Pennsylvania, not infrequently visiting Philadelphia. His career was, however, soon ended. His crew was captured and himself slain by a party organized by Governor Spotswood, of Virginia, and fitted out to clear the coasts of that province.

In his letter of the 18th of June, Governor Johnson had appealed to the Board of Proprietors for a frigate or two to cruise about for the protection of the Carolina commerce. "Hardly a ship goes to sea," he wrote, "but falls into the hands of the pirates."<sup>2</sup> But no assistance came. During the summer the pirates gave little trouble to the few vessels which sailed with their indifferent cargoes; but as soon as the autumn set in, familiar as they were with the Carolina trade, they began to prepare for active operations, as it was at that season when the rice and other products of the province brought the rich merchantmen to the town with their goods and specie for exchange. During the months of September and October their career found its culmination in a series of exploits unparalleled in audacity since the days of the previous century, when the buccaneers in the West Indies, under the leadership of the infamous Henry Morgan, held the seas against the fleets of the then powerful kingdom of Spain.

In company with Thatch on several of his cruises, in-

<sup>1</sup> Hughson, *ante*.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 257.



cluding that off Charles Town harbor just related, there had been one, the most remarkable of all the sea robbers of this period, and whose destiny it was to perish upon the gallows in the town he with Thatch had so insulted. This was Major Stede Bonnet, the last man, as it has been said, who could have been expected to have launched out upon such an abandoned and desperate career. A man past the meridian of life, of good antecedents, possessed of wealth, and of a considerable degree of education and refinement, as such accomplishments were in those rude times, there was every reason for him to remain at home and end his days in peace and honor. He had served with some distinction in the Army of Barbadoes, had been honorably retired after attaining the rank of Major; and was residing at Bridgetown at peace with all the world, and in good favor with the citizens of that thriving colony. Besides this, Bonnet had no knowledge of the sea, and knew so little of the requirements of a sailor's life that his first experiences resulted only in disaster. Indeed, it was said, and probably with truth, that his mind was disordered.

It was early in the year 1717 that Bonnet began his piratical career. Being a man of wealth, he had no difficulty in finding such a vessel and equipment as he desired; and one dark night, in company with a crew of seventy desperate men, he sailed across the Bridgetown bar in a sloop of ten guns, which he had named the *Revenge* — a name, as it has been observed, common in all the pirate fleets of that time. He made directly for the Capes of Virginia, and stationed himself in that great highway of commerce. In a few days he had taken a number of merchant vessels, several of which he burned after plundering them and sending the crews ashore. Preying for a time upon the commerce of New York and

New England, Bonnet sailed for South Carolina, and came off the bar of Charles Town in August, 1717. He had not waited here long before a sloop belonging to Barbadoes hove in sight, followed almost immediately by a New England brigantine. The brigantine he sent into Charles Town after relieving her of all her valuables; the sloop he retained for his own use, dismissing the crew.

The brigantine had scarcely crossed the bar of Charles Town when Bonnet weighed anchor and set sail for the coast of North Carolina to refit his vessel for another cruise. The Barbadian sloop he burned. After refitting the *Revenge*, Bonnet again put to sea, but without any definite determination as to his course. His men had discovered his ignorance of nautical affairs soon after leaving Barbadoes, and it was only by the influence of his superior courage and by means of threats and frequent punishments that Bonnet prevented an open mutiny. The *Revenge* was now steered for the Bay of Honduras, the great rendezvous of pirates. Here Bonnet met Thatch, and the two entered upon a cruise together. Thatch, soon perceiving that Bonnet knew nothing of seamanship, and deeming him an unsafe man to be in command of so fine a sloop as the *Revenge*, coolly deposed him, and placing Richards, one of his own officers, in charge, he took Bonnet on board his own vessel, where he gave him a position of ease and security. Bonnet, however indignant, was powerless to resist. Thatch, with a desperate crew in sympathy with him and sharing his contempt of Bonnet, was all-powerful.

The first prize taken by Thatch's newly organized squadron was the *Adventure* from Jamaica, whose master, David Herriot, himself joining the pirates, was destined to play a tragic part in Bonnet's subsequent career. Bonnet, willingly or unwillingly, was in company with

Thatch on several cruises, including the celebrated one off Charles Town harbor in June, 1718, after which he sailed in the same fleet to Topsail Inlet, North Carolina, where the company was disbanded.

Thus released from the control of Thatch, Bonnet was enabled to resume command and proceed to sea on his own responsibility. Availing himself of the King's proclamation of the year before, he proceeded to Bath, where he surrendered to Governor Eden, took the oath, and received a certificate of pardon. At the same time, he procured a clearance for his vessel for the Island of St. Thomas, announcing his intention of applying for a commission there as a privateer against the Spaniards. Thus armed with clearance papers and a pardon by a legally constituted authority, in the name of his Majesty, Bonnet was prepared to continue his career of crime and bloodshed under better auspices than those enjoyed by any pirate since the time that Kidd sailed from England with the personal sanction of King William himself. Returned to Topsail Inlet, he rescued a number of sailors who had been marooned by Thatch, — that is, put ashore on a desert island and abandoned, — and shipped them on the *Revenge* under the pretence of taking them to St. Thomas. Having thus procured a good crew, having himself attained considerable proficiency in seamanship, and secured the confidence of his men by his good fighting qualities, he determined first to avenge himself upon Thatch. But Thatch had sailed away. Learning that he had gone up the coast, Bonnet followed fast after him, but his quest was unsuccessful; and after cruising about for a few days, he proceeded to the coast of Virginia. On this expedition, Bonnet appointed David Herriot as sailing-master of his sloop. Bonnet at this time changed his name to that of "Captain Thomas," — probably from



fear of the consequences if captured after having so recently accepted the King's pardon. He changed also the name of his vessel to that of the *Royal James*. Having thus prepared himself for the most desperate enterprises, Bonnet announced his true intentions to his crew and declared his purpose to sail up the coast toward New England in search of booty. This announcement was said to have been a surprise to some of the men, and some who were afterwards captured were acquitted on their trial upon the ground that they had not assented to the piracy. Bonnet proceeded up the coast, committing several piracies, and, sailing into Delaware Bay, took several valuable merchantmen and terrorized the whole country. Among the captures in Delaware Bay were those of the sloop *Francis*, Captain Peter Manwaring, and the sloop *Fortune*, Captain Thomas Read. These captures were profitable ones, and, satisfied with the result of this cruise, Bonnet returned to Cape Fear, where the fleet arrived in August, 1718, and immediately set his men to overhauling and repairing the sloop for another expedition.

Governor Johnson and the people of South Carolina were burning with the desire to avenge the insult inflicted upon the colony the June before; and though the province was greatly reduced financially by the expenses of the Indian wars, they determined to expend every energy in driving the freebooter from their coast. When the news, therefore, reached the Governor that the pirates were rendezvousing at Cape Fear, it was at once determined not to await their appearance again off the bar of Charles Town, but to seek them out in their place of refuge and destroy them.

Colonel Rhett's seamanship came again to the assistance of the colony. He waited upon the Governor and asked

permission to fit out two vessels against the pirate, who, rumor said, was in fighting trim with a sloop of ten guns and a hardy crew of sixty men. A commission was issued to Rhett, and he pressed into service two sloops,—the *Henry*, Captain John Masters, and the *Sea Nymph*, Captain Fayrer Hall. The *Henry*, the larger vessel of the two, was fitted with eight guns and seventy men, and was selected by Rhett as his flagship. The *Sea Nymph* carried the same number of guns and sixty men.

On September 10 Colonel Rhett went on board the *Henry*. But just as he was about to weigh anchor, the immediate object of his expedition was suddenly changed by a piece of startling intelligence. A small sloop, with one Cook in command, belonging to Antigua, came into port, and reported that she had been overhauled and plundered by the most famous pirate of the times, Charles Vane, who had just escaped, as we have seen, from Rogers's fleet, and who now lay in front of the harbor with a brigantine of twelve guns and ninety men. Cook also reported that Vane had captured two other vessels bound for Charles Town, one a Barbadian sloop, Captain Dill commanding, and the other a brigantine from the Guinea coast with a cargo of over ninety negroes. The negroes had been removed from the brigantine and placed on board a sloop commanded by Vane's companion, Yeates, which Vane had been using as a tender. Yeates, finding himself in charge of a good sloop with several guns, a crew of fifteen men, and a valuable cargo, determined to desert Vane, and accordingly at midnight sailed away to the south. Vane discovered the treachery before many hours, and was in hot pursuit, but finding no traces of the fugitive, he had returned to Charles Town just in time to intercept four vessels bound out for London. Two of these escaped and continued their voyage, but the *Nep-*

*tune*, Captain King, carrying sixteen guns, and the *Emperor*, Captain Power, with ten guns, were both taken, with valuable cargoes.

The immediate object of Rhett's expedition was thus changed; on the 15th of September, Rhett crossed the bar, and, having learned from Cook that Vane intended going into an inlet to the south to repair, he stood down the coast for several leagues, scouring the rivers and creeks without success; and, finding no signs of the pirate, and believing all danger from this quarter to be past, he proceeded to the execution of his original design without returning to make report to Governor Johnson.

In the meantime, Charles Town had again been thrown into a state of agitation by the news of the landing of a party of pirates at some distance to the south. The intelligence was brought by no other than one of the pirate crew; and when it was learned that such a character had arrived and requested an audience with the Governor, the people, remembering a similar embassy which had been sent on by Thatch some months previous, were seized with great consternation. It was soon learned, however, that the pirate's errand was a peaceful one. He informed Governor Johnson that Yeates, who had escaped from Vane, had put into North Edisto River with his cargo of negroes, and wished to know if pardon would be granted him and his crew if they came to the city, delivered up the negroes, and took the oath of allegiance. An affirmative reply was returned, and shortly afterwards Yeates and his fifteen men came in with the negroes, delivered them to the authorities, and received their certificates of pardon.

Rhett sailed for Cape Fear about September 20. He spent some time in exploring the coast in search of Vane, and it was not until the evening of the 26th that he



sighted the great headland from which North Carolina's chief river derives its name. The mouth of the stream was obstructed by sand bars which could not be crossed with safety without an experienced pilot, and the pilot whose services Rhett had engaged seems to have had no knowledge whatever of the channel. The sloops had scarcely entered the mouth of the river when both ran aground, but not before they had sighted the topmasts of the pirate and his two prizes over a point of land some distance up the stream. Rhett could not get his vessels afloat until late in the night, and was therefore compelled to wait for dawn before making any hostile movement.

The pirates were not found off their guard. The watch, posted to give timely warning of the approach of any vessel, reported the appearance of Rhett's fleet immediately after it crossed the bar. In the growing dusk it was impossible to distinguish whether or not they were merchantmen, and Bonnet, or Thomas, as he now called himself, manned three armed boats and sent them to reconnoitre. They had not come within gunshot when, perceiving the character of Rhett's ships, they hastened back to the *Royal James* and reported the result of their observations.

Bonnet understood at once that the break of day would bring on a fight that would be to the death, and he began preparations immediately for the heaviest combat of his piratical career. All night the crew, incited to constant vigilance and unceasing labor by alternate threats and promises, worked clearing the decks and making ready for action.

On board the *Henry* and the *Sea Nymph* no less active preparations were made. When Bonnet's men came down the river early in the evening, the South Carolinians antici-

pated an immediate attack, and, fearing that it might yet be made, they lay on their arms all night.

The sun had barely risen above the headlands which command the entrance to the river, on Saturday the 27th, when the South Carolinians, looking across the point of land behind which the pirates lay, saw the sails of the *Royal James* being run up the masts and heard the rattle of the chains as the anchors were hoisted to the deck. A moment later the pirate craft swung round before the breeze, which was blowing straight off the land, and with all sail set came flying down the river in the attempt to pass the place where the two sloops lay at anchor.

Bonnet's design was evident. He saw that his opponents outnumbered him two to one, and he determined to maintain a running conflict as he drove through to reach the open sea. Rhett saw his purpose, and both sloops weighed anchor and made for Bonnet as he rounded the shelving point of land. Taking a position on either quarter of the *Royal James*, with a view to boarding, the *Henry* and the *Sea Nymph* bore down in such a direction as to force Bonnet to steer close to the shore. Rhett had planned this movement without any knowledge of the river, and it proved as disastrous to his own vessels as to that of the enemy. In a few moments the *Royal James* was aground, and the attacking sloops, unable to come about with sufficient dispatch, ran into the same shoal water, and were soon hard and fast on the sandy bottom of the channel. The *Henry* grounded within pistol shot of the pirate, on the latter's bow, while the *Sea Nymph*, in her endeavor to cut off the flight, struck the bank so far ahead as to be completely out of range, and was of no service until five hours later, when she floated off on the rising tide.

As soon as it was found impossible to get the *Henry* afloat, Colonel Rhett gave orders for a heavy fire to be

opened, and the sloop, with her ten guns, began pouring broadsides into the pirate, while the crew kept up a continual fire with small arms, which did almost as much execution as the heavier fire from deck. During this part of the fight the South Carolinians were at a tremendous disadvantage. When the *Henry* and the *Royal James* went aground, both careened in the same direction, so that the deck of the pirate was turned away from the *Henry*, while every foot of the latter's deck was mercilessly exposed. The heavy shot from the South Carolinians could only take effect on the hull of the pirate, while their own deck could be swept from end to end at every discharge. Lying in these positions, the two vessels maintained for five hours a continuous and bloody contest. The South Carolinians, though under the most trying conditions, conducted themselves with the most dauntless courage. Exposed as was their position, it would seem certain death to man the guns; but notwithstanding this, every man stood to his post without a thought of flinching, and the conflict was not permitted to languish for a single moment.

The pirates saw their advantage from the beginning, and availed themselves of it in every possible way. For some time it seemed certain that the victory would be theirs, and, in spite of the spirit displayed by Rhett and his men, Bonnet considered it but a matter of a few hours when the pirate ensign would triumph over the colors of the King. They "made a wiff in their bloody flag," says a contemporary account, "and beckoned with their hats in derision of our people to come on board them; which they only answered with cheerful huzzas and told them it would soon be their turn."<sup>1</sup>

<sup>1</sup> Mr. Hughson, whose graphic story of this battle between the South Carolinians and the pirates we have taken almost *verbatim*, says, in a note,



Both sides were confident ; but the pirates, who enjoyed such an advantage at the beginning of the conflict, had a great disappointment in store for them. The issue of the battle now depended on the tide ; victory would without doubt be with the party whose vessel was first afloat. For five hours the flood poured up the river, and it was late in the day before it was high enough to lift the vessels from their stranded positions. The pirates understood the situation fully, and one can imagine the consternation which seized upon the crew of the *Royal James* when they saw the *Henry* slowly righting herself as the rising flood swept higher and higher around her bows. Many of the crew declared for immediate surrender, but Bonnet refused to listen to such counsel. Under the stress of excitement, the courage which failed him so ignominiously at the last was roused to a desperate pitch. He swore, according to the testimony of one of his party who turned State's evidence, he would fire the ship's magazine and send the entire crew to the bottom before he would submit ; and, drawing his pistols, he threatened to scatter the deck with the brains of any man who would not resist to the last should Rhett attempt to come on board. Bonnet's courageous conduct did not avail, however. There were spirits in her crew as determined as he, who preferred to take the

that his account is taken from a pamphlet written from Charles Town, and published in London in 1719, entitled *Tryals of Major Stede Bonnet and Other Pirates*. The account of these trials given by Howell (*State Trials*, vol. XV, 1231), he observes, is evidently taken from this pamphlet. Mr. Hughson states that through the courtesy of Mr. Daniel Ravenel of Charleston he had been enabled to make full extracts from this rare publication. Through the courtesy of Mr. Daniel Ravenel, son of the former, the author of this work has been enabled also to peruse this valuable pamphlet, and thus to verify Mr. Hughson's admirable account of the battle, which he has adopted.

chances of a trial or a pardon rather than to brave the death a further resistance would immediately incur, and surrender was determined upon.

While the pirates were angrily debating the course they should pursue, Rhett set his crew to work and temporarily repaired the damage sustained by the rigging; and, assuring himself that the hull of the *Henry* was intact, he stood for the *Royal James* with the intention of boarding her promptly if this should be necessary to force a surrender. At this juncture, however, a flag of truce was received, and, after a few minutes of parley, the *Royal James* surrendered unconditionally. On boarding her, Rhett, who had not known who was the pirate chief, was surprised to learn that his captive—Captain Thomas, as he was styled—was none other than the notorious Stede Bonnet, whose name was now known along the coast of every colony from Jamaica to Newfoundland.

As the *Henry* had borne the brunt of the fight, her loss was far greater than that of her companion sloop. She had ten killed and fourteen wounded, several of whom died afterwards of their injuries. The *Sea Nymph* had two killed and fourteen wounded. Several of the wounded of this vessel also died subsequently, for Judge Trott, in passing sentence upon Bonnet, stated that eighteen South Carolinians had lost their lives in this expedition. The pirates, in consequence of their sheltered position, suffered much less severely. Seven of the crew were killed and four wounded, two of whom died soon afterwards. There is a tradition that Rhett was shot through the body, but circumstances do not countenance the story.<sup>1</sup>

When the struggle of the 27th was at an end and

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 285, note.

Rhett examined his little fleet, he found that it had been much injured by the pirate guns, and would require considerable repair before it could be trusted to stand the return voyage down the coast to Charles Town. He accordingly remained at Cape Fear for three days, and on September 30, with the *Fortune* and the *Francis*, which had been taken by Bonnet, and the pirate sloop as prizes, sailed for Charles Town, where he arrived on October 3, "to the great joy of the whole province."

Two days later Bonnet and his crew of over thirty men were landed and delivered into the custody of Captain Nathaniel Partridge, the Provost Marshal of the province. There was no prison in the province, — Governor Johnson, it will be remembered, had called attention to this want, — there was only a watch-house, which stood where the old postoffice now stands. All of the pirates but Bonnet were placed in this guard-house with a military guard posted over them. The authorities agreed to permit Bonnet to remain in the custody of the Marshal at the latter's residence, two sentinels being placed on guard at the Marshal's house every evening at sunset. A few days later David Herriot, the sailing-master, and Ignatius Pell, the boatswain, who had agreed to become evidence for the Crown, were also removed to the residence of the Marshal.<sup>1</sup>

<sup>1</sup> Preface to *Tryals of Major Stede Bonnet, etc.* (pamphlet).



## CHAPTER XXVII

1718-19

UPON the capture of the pirates De Cossey and others the year before, Governor Daniel and his Council had proceeded under the act of 1712, which had made of force in this province the statute of Henry VIII. It appears to have been deemed advisable, however, before proceeding to the trial of Bonnet and his crew, to revise that act, and the Assembly must have been called together for the special purpose, for the act adopted the 17th of October, 1718, was the only one enacted at that time. There are no existing journals of this year, however, to show that this was positively so. The title of the act indicates that it was passed to meet an immediate emergency. Its title is "*An act for the more speedy and Regular Trial of Pirates.*"<sup>1</sup> It provided that a commission, in the name of the Palatine and the rest of the true and absolute Lords Proprietors of the province, should be directed to the judge or judges of admiralty of the province and to such other substantial persons as the Governor, with the advice and consent of the Council, should appoint, four of whom should constitute a quorum, who should have power to inquire of piratical offences, and upon the oaths of twelve men to put the offenders upon trial. The act provided lists of persons, out of which lists the juries, grand and petit, should be drawn.

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 41.

On the 21st of October Governor Johnson wrote to the Commissioners of Trade giving an account of the appearance of the pirates, their insolent conduct, and Colonel Rhett's successful expedition against them. He expressed his apprehensions that the pirates, who infested the coast in great numbers, would be much irritated at this action on the part of the colony, and that its trade would be much endangered. He asked, therefore, that a vessel should be sent for the protection of the commerce of the province.<sup>1</sup>

Governor Johnson's apprehensions were immediately realized. Before a court could be organized under the act just passed, and while Bonnet and his crew were waiting their trial, news was brought that another notorious pirate, one Moody, was off the bar with a vessel carrying fifty guns and 200 men, and that he had already taken two vessels bound from New England to Charles Town. The Governor, on the receipt of this intelligence, at once convened his Council. He represented to its members the danger of invasion and the hopelessness of expecting aid from England. No assistance had come in reply to his letter of the 18th of June. Notwithstanding the impoverished condition of the province, by reason of the Indian wars, and the former expedition against the pirates, another must at once be organized and fitted out against these new-comers. The coast of Carolina must be cleared for her commerce at her own expense. The Council approved Governor Johnson's prompt and decisive action and unanimously decided to equip an armament of sufficient weight to cope with Moody and his fifty guns.

There were nearly a score of trading vessels in the harbor, and to these the Governor turned for aid. The

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 237.

captains had, however, no authority to volunteer to run the vessels belonging to others into so great danger, and it was therefore found necessary to press the required ships into the public service. Upon an inspection of the vessels in port, the Council selected the *Mediterranean*, Arthur Loan, master; the *King William*, John Watkinson, master; and the *Sea Nymph*, Fayrer Hall, master, for the perilous expedition. To this fleet was added the *Royal James*, captured from Stede Bonnet, which was held in Charles Town as a prize. She was placed in command of Captain John Masters, former master of the *Henry*, Rhett's flagship in the Cape Fear expedition. Eight guns were mounted between her decks, and the old pirate craft, says Hughson, was for once in her lifetime fitted out for honest work. The *Mediterranean* was mounted with twenty-four guns, the *King William* with thirty, and the *Sea Nymph* with six. Having secured the necessary fleet, the Council issued a proclamation calling for volunteers and promising them all the booty that might be taken.

The fleet and force for the expedition having been thus provided, the question arose as to the command of it. All eyes were, of course, turned to Rhett, whose naval experience and recent success rendered him at once the person to whose lead the colonists looked. Richard Allein, the Attorney General, in his opening address to the jury in the first trial, declared that Colonel William Rhett was the chief, if not the first, promoter of the fitting out of the expedition which had captured Bonnet and his party;<sup>1</sup> but Rhett, who was of uncertain and fiery temper, had quarrelled with Johnson in consequence of some action of the Governor in connection with that expedition, and he now held back. Governor Johnson

<sup>1</sup> *Tryals of Major Stede Bonnet, etc.*, 9.



determined, therefore, to take command himself of this enterprise and to lead the fleet against the pirates in person at the earliest possible moment. This course of the Governor infused confidence, and in a few days 300 volunteers were on board the vessels awaiting orders to sail. But a serious delay was still to be met. The masters of the impressed vessels made no objection to giving their personal services to the colony, but their owners were to be considered, and they now entered a formal protest, strongly representing that some security should be given by the government to indemnify them for injury or capture of their vessels by the pirates. Hughson states that Governor Johnson recognized the justice of their plea and immediately convened an extra session of the Assembly and laid the case before it, and that the Assembly without delay voted a bill to secure the ship-owners against all losses and expenses.<sup>1</sup> No such act can, however, be found; and as the journals of the Assembly for this year are missing, no record of it has been preserved. However settled, these proceedings delayed the expedition for about a week; but in the meantime scout-boats had been stationed along the shore of the islands, at the entrance of the harbor, to resist any attempt on the part of the enemy to land, and at the same time an embargo was laid on all shipping.

While the Governor was thus busily engaged endeavoring to organize this expedition, the captured pirates, it appears, had found some friends in the town who had created disturbances under cover of which to effect their release, and that Bonnet and Herriot had actually escaped.<sup>2</sup>

<sup>1</sup> Hughson, *Johns Hopkins Univ. Studies*, V, VI, VII, 115.

<sup>2</sup> Mr. Thomas Hepworth, who assisted the Attorney General in the prosecution, refers to such disturbances; but, save this passing remark, there is no other allusion in the accounts of the times to any such trouble. *Tryals of Major Stede Bonnet*, 11; *State Trials*, vol. XIV, 1248.

Ramsay states that Bonnet escaped in the disguise of a woman's clothing,<sup>1</sup> which would have been no matter of surprise considering the looseness of his confinement. Pell, the boatswain, refused to fly with Bonnet and Herriot. The escape was made on the 25th of October.

Governor Johnson immediately issued a proclamation offering a reward of £700 for the capture of the fugitive, sent "hue and cry" and expresses by land and water throughout the whole province, and dispatched several boats with armed men in pursuit. Bonnet, it appears, had effected his escape in a canoe with an Indian and a negro. In this small craft he put to sea, in the hope, probably, of joining Moody's vessel, of the presence of which off the bar he was no doubt informed, or of reaching again the *Cape Fear*; but it happened that on that day the pirate vessel supposed to have been Moody's was far away — indeed, it was off Cape Henry, engaged in the capture of the ship *Eagle Galley*.<sup>2</sup> Bonnet was entirely without provisions, the weather was tempestuous, and he was forced to return to Sullivan's Island. There he hid for some days.

In the meanwhile, amidst the excitement and confusion of Bonnet's escape, and of the preparation of the expedition against the other pirates on the coast, the court which had been provided for by the act of the 18th of October met and organized on the 28th; and while the Governor was getting ready to put to sea against Moody, as he supposed, the court proceeded to the trial of the rest of Bonnet's crew. Nicholas Trott, Judge of Vice Admiralty and Chief Justice of the province, presided, with George Logan, Alexander Parris, Philip Dawes, George Chicken, Benjamin de La Conseillere, Samuel Dean, Ed-

<sup>1</sup> *Hist. of So. Ca.*, 204, note.

<sup>2</sup> *So. Ca. Adm. Ct. Rec. Book*, A and B.

ward Brailsford, John Croft, Captain Arthur Loan, and Captain John Watkins as assistant judges. The grand jury was formed, with Michael Brewton foreman.

Judge Trott proceeded to charge the grand jury upon the subject of piracy. His charge was a most learned one, exhibiting extensive erudition, quoting from many authors in Latin and Greek, and, though it would be regarded to-day as pedantic, was a most able exposition of the law of the case. He first traced the history of the constitution and jurisdiction of the Courts of Admiralty from the earliest time, and explained the design and effect of the act 28 Henry VIII, whereby pirates were thereafter to be tried according to the course of the common law, and defined and expounded the law of piracy, as modified by that statute, adopted in the province in 1712, under which the accused were to be tried.<sup>1</sup> An indictment was given out against Stede Bonnet and several others of his company, and the court adjourned. The next day other indictments were given out, and true bills found. On the 30th a petit jury was organized, and the case proceeded; in the absence of Bonnet, Robert Tucker and others were brought to the bar and put upon their trial. Richard Allein, the Attorney General, rehearsed the recent deeds of the pirates. He was sorry, he said, to hear some expressions drop from private persons (he hoped there were none of them upon the jury) in favor of the pirates, and particularly of Bonnet; "that he is a gentleman and a man of honor, a man of fortune, and one that has had a liberal education. Alas, Gentlemen," he said, "all these quali-

<sup>1</sup> This charge is quoted at some length by a learned writer, Phillimore, of the College of Advocates, in his *Commentaries upon International Law*, as correctly defining the law of piracy; and a list of the authorities cited by Trott is given in a note to his work. Phillimore's *International Law*, CCCLVI. Law Library ed., 286.



fications are but several aggravations of his crimes," etc. He had in his hand, he stated, an account of above thirty-eight vessels taken by Bonnet, in company with Thatch, in the West Indies since the 5th of April before. The Attorney General was followed by Mr. Thomas Hepworth, to whose address to the jury reference has already been made. Then Ignatius Pell, who had refused to fly with Bonnet and had turned State's evidence, was put on the stand, and upon his testimony, and that of the captains of the vessels that had been captured by Bonnet, Tucker and four others were found guilty. The court proceeded from day to day with the trial of others. The conviction of seventeen others rapidly followed; four were acquitted.

The accused had no counsel; but it is a mistake to suppose, as has been asserted, that this was because of the provision of the Fundamental Constitutions declaring it "a base and vile thing to plead for money or reward," and that hence the members of the bar of the colony were unwilling to undertake the cause of the accused, for which they could receive no remuneration.<sup>1</sup> That provision was never of any more force in the colony than any other of that extraordinary body of laws. The simpler explanation of the absence of counsel is that under the law of England then, and for more than a century after, criminals were not allowed counsel in any case except of treason. It was not until 1836, as we have already said, that counsel was so allowed in England. Piracy, it is true, was held to be in the nature of treason; but these pirates were indicted for felony under the statute of Henry VIII, and so were not entitled to counsel under the exception in regard to trials for treason.

Governor Johnson was nearly ready to embark with his fleet when information was brought him that Bonnet was

<sup>1</sup> Hughson, *Johns Hopkins Univ. Studies*, 2 series, V, VI, VII, 105.

hiding on Sullivan's Island, and though Colonel Rhett would not take part in the expedition against the pirates at sea, he readily accepted a commission to effect the recapture of Bonnet. The Governor sailed with the fleet on the 4th of November, and Rhett went that night to Sullivan's Island. He searched diligently for a long time in the sand hills among the dense myrtle and cedar, which afforded so many hiding-places, before he found the fugitives. But at the last he did so, when some of his party fired. Herriot fell dead ; the negro and the Indian were wounded. Bonnet submitted and surrendered himself, and the next morning, being the 6th of November, Colonel Rhett brought him to the town.

Several days before the Governor's fleet was ready for sea, the boats off Sullivan's Island sighted a ship and a sloop which, coming up to the bar, dropped anchor and attempted to land. They were prevented by the guards, however, who made a hostile demonstration on their approach, and for three days the two strange craft lay quietly at their moorings, making no movement calculated to arouse further suspicions.

Late on the evening of November 4, the Governor's fleet sailed down the harbor and anchored several hundred yards below Fort Johnson, which commanded the main entrance to the port. Orders had been issued for every movement to be made with the least demonstration possible, and the vessels reached their anchorage without being detected by the pirates, who had again returned to the mouth of the harbor. The Governor's fleet lay quiet all night, and as the gray mist of early morning crept slowly over the ocean, Governor Johnson, from the deck of his flagship, the *Mediterranean*, signalled his consorts to weigh anchor and follow him. The commander of each vessel had been carefully instructed before the fleet

had left the town. No warlike display was to be made until the final moment; and the four vessels now steered in the direction of the pirate fleet with the guns all under cover, and the men below decks. By eight o'clock they were close to the enemy. The deception was complete. Mistaking them for merchantmen, the pirate ship promptly weighed anchor, and stood on toward the mouth of the harbor to intercept the retreat which they were certain would be attempted. Having placed themselves between the South Carolinians and the harbor, they now hoisted the black flag, and called on the *King William* to surrender. At this moment Johnson ran the King's colors to the masthead of the *Mediterranean*, threw open his ports, and delivered a broadside which swept the decks of the nearest vessel with murderous effect. Before the pirates had recovered from the consternation into which they were thrown by this action, the South Carolinians bore down upon them and began the battle in desperate earnest, and at the closest possible quarters. The hatches were thrown open, the men rushed from below the decks heavily armed, while the sixty-eight guns of the combined fleet poured broadside after broadside into the pirates, who were now hemmed in between the shore and Governor Johnson's vessels. By skilful management, however, the pirate ship escaped from her precarious position, and made all sail possible in order to elude the desperate chase of the South Carolinians. Johnson signalled the *Sea Nymph* and the *Royal James*, or the *Revenge*, as she was now called, to look to the sloop, while he, in company with the *King William*, made hot pursuit after the ship, which seemed to have every chance of escape.

The pirate sloop, which carried six guns and forty men, unable to reach the open sea, was now vigorously attacked by Hall and Masters. The pirates defended themselves



with a valor worthy of a better cause, and for four hours, with the vessels almost yard-arm to yard-arm, they maintained a struggle as fierce as any ever known in these waters which have so often been stirred by hostile forces. Finally they were forced to abandon their guns, and many sought shelter in the hold from the terrible fire which was sweeping the vessel from stem to stern. A few moments later the South Carolinians boarded her, despite the desperate resistance made by the captain and the men who remained to meet them. Reaching the decks, the attacking party made quick work of the pirates, although the latter defended themselves with the desperation of men who realized that they had but one chance left to them for life. In a short time every man above decks, including the chief, who fought to the death with the fury of a lion, was either killed or disabled, and the boarding party found itself in undisputed possession of the vessel. The men who had fled into the hold surrendered without another blow, and a few hours later the sloop, with her surviving crew in irons, was carried into Charles Town in triumph. The struggle, says Hughson, which took place almost within sight of the town, created the most tremendous excitement among the inhabitants, which arose to a pitch of almost indescribable exultation as the throng along the wharves saw the *Sea Nymph* and the *Revenge* rounding the harbor, the royal ensign at the masthead signalling their victory.

Governor Johnson, while not forced to such desperate fighting as his subordinates of the *Revenge* and the *Sea Nymph*, had a long, hard chase after the fleeing ship, and did not come up with her until the middle of the afternoon. During the pursuit the pirate abandoned the defence and bent every energy to effect his escape. He lightened the ship in every possible way, and even threw

over the guns and the boats, but all to no avail. The South Carolinians had the fastest sailers, and as soon as they came within range Governor Johnson ordered the *King William* to open fire. The first discharge raked the sloop, killing two of the crew, and "having received a shot between wind and water," the pirates hauled down the black flag and made an unconditional surrender.

When the hatches were opened, to the great surprise of the captors, it was discovered that the hold of the ship was crowded with women; and upon investigation the vessel proved to be the *Eagle*, bound from London to Virginia and Maryland with 106 convicts and "covenant servants,"—whom it was designed to settle in those colonies,—thirty-six of whom were women. The *Eagle* had been captured by the pirate sloop, which was known as the *New York Revenge*, near Cape Henry, and converted into a tender. Six guns had been placed in her, and her name was changed to the *New York Revenge*, and John Cole had been given the command. A large number of the crew and of the convicts allied themselves to the pirates, while those who refused to join them were held as prisoners.

A still more serious surprise, continues the author from whom this account of the expedition is taken, awaited the Governor, however, on his return to Charles Town to look after the issue of the conflict between the sloop and the rest of his fleet. It was ascertained that the captured vessels did not belong to Moody at all, nor did the captive crews have any connection whatever with him. The commander, who had been killed on board the sloop, proved to be another still more famous pirate, one Richard Worley, who had terrorized the coast in the vicinity of New York and Philadelphia but a few weeks previous. Governor Johnson was naturally much gratified at having

exterminated so dangerous a company of villains, but the question as to the whereabouts of Moody was still one of vital interest to the colony. The statements of the prisoners were certainly not above suspicion, and no one could say positively that Worley's crew was not a part of Moody's company. It was altogether possible, if not probable, that Moody was hovering within the headlands of one of the neighboring harbors, and would, if in his power, wreak a cruel revenge on the colony for the capture and slaughter of his comrades.

To guard against the possibility of a sudden descent on the port, Johnson determined to maintain his fleet in a state of thorough organization until he was satisfied that all danger was past. A few days afterwards the public anxiety was relieved by the arrival of the *Minerva*, Captain Smyter, from the Madeira Isles, who reported that he had been taken off the bar by Moody, who, about the same time, received information of the preparations which were being made in Charles Town to capture him. He had accordingly taken the *Minerva* about a hundred leagues out to sea, where he had plundered her, after which he set sail for New Providence, in order to avail himself of the King's proclamation, which had been brought out by Governor Woodes Rogers.

It was a time of the greatest excitement. Stirring and startling events followed each other in rapid succession. Governor Johnson had sailed with his fleet on the evening of the 4th of November. The next day, the 5th, while the Governor was engaged in battle off the bar with Worley, Rhett had recaptured Bonnet on Sullivan's Island, while, on the same day, the trial of Bonnet's crew was brought to a close, and twenty-two of them sentenced to death. Bonnet was brought to town on the 6th. Two days after, the 8th, the twenty-two convicted were executed, and, on



the 10th, Bonnet himself was arraigned on two indictments. One of them charged him with piracy in taking the sloop *Francis*, Captain Manwaering, and the other with piracy in taking the sloop *Fortune*, Captain Read.<sup>1</sup>

Mr. Hepworth opened the case for the prosecution, and Ignatius Pell, Bonnet's boatswain, was put on the stand. Pell appears to have had some affection for Bonnet, and to have testified reluctantly against his master; but, as his own life was at stake, he could not shield him. By the theory of the English law, counsel was not necessary for the defence, as it was the duty of the judge to see that the accused had a fair trial, and to take care of his interests; but that was but a poor protection under such a judge as Trott, whose tyrannical conduct on the bench was one of the causes of the fast approaching overthrow of the Proprietors.

There could be no doubt of Bonnet's guilt, but his calm and dignified bearing at the trial elicits, even at this day, some sympathy for him, and provokes resentment against Trott's overbearing conduct. The Chief Justice availed himself of the practice of the times to interrogate the accused as well as the witnesses, and thus to expose the weak points in his case.<sup>2</sup> Bonnet met the judge's interrogations with self-possession, and, when he could not offer an explanation, was silent. His defence was that he had honestly intended to proceed to St. Thomas, but had been overpowered by his crew and forced to continue in his piratical course. The plea was a weak one, and easily disposed of by the judge; but, not content to do so, Trott did not hesitate to bring into Bonnet's case

<sup>1</sup> *Tryals of Major Stede Bonnet*, 37.

<sup>2</sup> This practice was abolished, and prisoners exempted from interrogation by the judge, at the same time as they were allowed counsel on their trial. — *Encyclopedia Britannica*, "Criminal Law," Edmund Robertson.

the testimony taken in the former trials, at which Bonnet had not been present, and upon such inadmissible testimony to declare the charges proved against him. He was convicted on the first indictment that day. Upon his arraignment the next, on the second indictment, he withdrew his plea of not guilty. On the third day, the 12th, he was sentenced to death.

In sentencing Bonnet, Trott delivered one of his remarkable charges abounding with quotations from the Scriptures, with which this remarkable man showed himself as familiar as he was with the civil and common law.

“You being a Gentleman that have had the advantage of *liberal education* and being generally esteemed a man of *Letters* I believe it will be needless for me to explain to you the nature of *Repentance* and *Faith* in Christ they being so fully and so often explained in the Scriptures that you cannot but know them. And therefore perhaps for that reason it might be thought by some improper for me to have said so much to you as I have already upon this occasion; neither should I have done it, but that considering the course of your life and actions, I have just reason to fear that the Principles of Religion that had been instilled into you by your *Education* have been at least corrupted if not entirely defaced by the *Sceptism* and *Infidelity* of this wicked age; and that what Time you allowed for Study was rather applied to *Polite Literature*; and the vain *Philosophy* of the Times than to a serious Search after the *Law* and *Will* of God, as revealed to us in the *Holy Scriptures*. For *had your Delight been in the Law of the Lord, and that you had meditated therein Day and Night* Psal 1–2 you would then have found that *Gods Word was a Lamp unto your Feet, and a Light to your Path* Psal: 119–105, and that you would account all other knowledge but *Loss* in comparison of the *Excellency of the Knowledge of Christ Jesus* Phil 3–8 *who to them that are called is the Power of God and the Wisdom of God* 1 Cor: 1. 24. *even as the hidden Wisdom which God ordained before the World.* Chap: 2–7.”<sup>1</sup>

And more, much more, to the same effect.

<sup>1</sup> *Tryals of Major Stede Bonnet*, 44; *Howell's State Trials*, vol. XV, 1234–1302.

Bonnet had, under the circumstances, borne up bravely enough during his trial ; but upon his sentence his courage and resolution failed, and the most abject and pusillanimous appeals for mercy were made by him both to the Governor and to Colonel Rhett, his captor. To Colonel Rhett he wrote, imploring his intercession, insisting before "God, the knower of all secrets," that he was himself but a prisoner when he lay with Thatch off Charles Town bar ; that he had been coerced in his course ; that he had hailed with joy his capture by Rhett, as affording him an opportunity of disengaging himself from the wicked people with whom he had been associated.<sup>1</sup> To Governor Johnson he addressed the most piteous and extraordinary appeal. Throwing himself at the Governor's feet, he implored him "to look upon him with tender bowells of pity and compassion," and to believe him the most miserable man that day breathing. "That the tears proceeding from my most sorrowful soul may soften your heart and incline you to consider my dismal state wholly, I must confess, unprepared to receive so soon the dreadful execution you have been pleased to appoint me ; and therefore beseech you to think me an object of your mercy." In his abject misery he begged for life, for life only, on any terms.

"I heartily beseech you'll permit me to live," he wrote to the Governor, "and I'll voluntarily put it ever out of my Power by separating all my Limbs from my Body, only reserving the use of my Tongue to call continually on, and pray to the Lord, my God and mourn all my Days in Sackcloth and Ashes to work out Confident hopes of my Salvation, at that great and dreadful Day when all righteous Souls shall receive their just rewards. And to render your Honour a further Assurance of my being incapable to prejudice any of my Fellow Christians, if I was so wickedly bent I humbly beg you will (as a Punishment of my Sins for my poor Soul's Sake) indent me as a menial Ser-

<sup>1</sup> Letter in note, Ramsay's *Hist. of So. Ca.*, vol. I, 204.



vant to your Honour, and this Government during my Life, and send me up to the farthest inland Garrison or Settlement in the Country or in any other ways you'll be pleased to dispose of me."

Like Trott, he showed himself familiar with Holy Writ, and concluded his appeal in the words of Paul the Apostle to the Hebrews.

"Now the God of Peace that brought again from the Dead our Lord Jesus, that great Shepherd of the Sheep, thro' the Blood of the everlasting Covenant make you perfect in every good Work to do his Will, working in you, that which is well pleasing in his Sight through Jesus Christ to whom be Glory for ever and ever is the hearty Prayer of

"Your Honour's Most miserable and Afflicted servant

"STEDE BONNET."<sup>1</sup>

It was indeed a remarkable incident, that of the familiarity thus shown with the sacred Scriptures on the part alike of a corrupt judge and of a bloody pirate. Despite the desperate character of the culprit, so pitiful was his behavior that the sympathies of the public were greatly aroused in his behalf, and much pressure was brought to bear on Governor Johnson to induce him to grant either a pardon or a commutation of his sentence. Bonnet himself was desirous of being carried to England, so as to have his case brought directly to the attention of the King. His appeal to Colonel Rhett so excited that gentleman's interest in his behalf, that he is said to have offered to carry him, and ample security was also tendered for his safe delivery to the home authorities. But Governor Johnson knew what the province had suffered at the hands of the pirates, and he would listen to no proposition, nor parley with them or their friends. He had no sympathy with the movement to procure a stay of Bonnet's execution, and was unswerving in his determination that he should die in accordance with the sentence of the

<sup>1</sup> Hughson, *Johns Hopkins Univ. Studies*, 2 series, V, VI, VII, 110.

court. It remained with the Governor to fix the day of the execution. He appointed Wednesday, the 10th of December, as the fatal day, and Bonnet was accordingly executed. It is said that he was so unnerved "that he was scarce sensible when he came to the place of execution."<sup>1</sup>

In the meanwhile the court was again convened, and twenty-three of those captured by Governor Johnson's expedition were also convicted, and on the 24th of November were sentenced to death. They were executed, but the day upon which their execution took place is not certainly known.

The nest of pirates which had been established in Cape Fear was now thoroughly broken up. Thatch, or "Black Beard," had been killed and his crew captured by the expedition fitted out by Governor Spotswood of Virginia; Bonnet had been captured by Rhett and executed; and Worley had been slain in the battle with Governor Johnson. Without disparagement to the conduct of Governor Spotswood, it may be pointed out that however prompt and vigorous his action, the expedition which he sent had the advantage of being commanded by officers of the Royal Navy, whereas those of Governor Johnson were led by Colonel Rhett and himself in person. The South Carolinians had arisen against the pirates as they had done against the Indians, and, without waiting for the help they had asked, had themselves without assistance organized and conducted two brilliant and successful expeditions. They had so far been victorious, and opened the harbor of Charles Town to their commerce. But the danger was by no means past. The sea was yet covered with pirate craft, manned by as desperate outlaws as any of those who had paid the penalty of their crimes

<sup>1</sup> Hughson, *supra*.

at White Point. Every month brought intelligence of renewed outrages, of vessels sacked on the high seas, burned with their cargo, or seized and converted to the nefarious uses of the outlaws.

Governor Johnson, says Hughson, was no dreamer, and he did not lull himself into any fancied security because of the success of the plots of the daring Rhett and himself. The province itself was scarcely able to do anything more. The cost of the two naval expeditions had further exhausted the already depleted treasury, and as yet the English authorities had given no indication of their intention to do anything to assist their hard-pressed fellow-countrymen in the distant colony.

But Governor Johnson did not despair, though he did not encourage the thought of expecting any assistance from abroad. On the contrary, he insisted that the people should help themselves; and in February, 1719, the Assembly passed an act providing sufficient funds to pay the debts incurred by the equipment of the two expeditions. In the meantime the Governor had forwarded another letter to the Lords of Trade, in which he gave a full account of the recent occurrences, narrating how his fears had been realized, and urging that a ship of war should be sent to South Carolina immediately, unless their Lordships were willing to see the trade completely ruined. In this communication the Governor expressed himself with great earnestness, claiming for the colony some consideration at the hands of the board, and reminding it that during the previous year the province had supplied, for the use of his Majesty's navy, 32,000 barrels of tar, 20,643 barrels of pitch, and 473 barrels of turpentine. In a letter written the following December, after he had been deposed by the people in consequence of the neglect and tyranny of the Proprietors, he writes to them that



“he is out of pocket £1000 sterling,” by reason of the extraordinary expenses he was at in suppressing the pirates.<sup>1</sup>

Governor Johnson's appeals brought at last, on April 29, 1719, the information that the Lords of Admiralty had consented to send a frigate “as soon as possible”; and some months after, the man-of-war *Flambourgh*, Captain Hildesly, arrived and was placed on duty in the harbor, while the *Phænix*, Captain Pierce, was sent to cruise along the coast, keeping a lookout for any freebooters who might venture to depredate on the commerce of the colonies.

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 236-239.

## CHAPTER XXVIII

1719

THE year 1719, so memorable in the annals of Carolina for the overthrow of the Proprietors' Government, opened most auspiciously to the interest of their Lordships. Governor Johnson's heroic and efficient conduct in regard to the pirates had greatly propitiated the people of the colony. The Assembly forgave the lecture he had read them upon his arrival upon their conduct and duties to the Proprietors, and forgot the controversy in regard to the Public Receiver. Putting aside all matters of difference, they entered into the most cordial relations with the Governor. They passed an act declaring the willingness of the people of the province to consent to any reasonable measure whereby their Lordships might have justice done them with respect to their rents; and "for promoting so good and just a design and that the Lords Proprietors seeing the inclination of the inhabitants of this province to do them justice, and duly to pay them their rents, may assist this province, and use their interest to support the same and to promote the good thereof, and that all differences and misunderstandings between their Lordships and the people may be removed," etc. They agreed that all arrears of rents, and all that should thereafter become due, should be paid either in lawful money according to the statute of the 6th of Queen Anne, which, at that time, would have required £4 in currency to £1 in good money, or else in good merchantable rice at the rate of

17s. 6*d.* per 100, or good pitch at the rate of 15s. per barrel, or tar at the rate of 7s. 6*d.* per barrel. This was a compliance with their Lordships' demand as stated by the Governor in his opening speech to the Commons the year before. They provided also for the enforcement and collection of the rents. The act went on to say that seeing, by an order of the Board of the Lords Proprietors of the 3d of May, 1716, their Lordships had been pleased to give all their arrears that were then in Carolina due to them, whether for land sold, or for rent that should become due on the 1st of May, 1718, to the use of the public as the Governor and Council should think most proper to appropriate the same; but, by reason of some misunderstanding between the Lords Proprietors and the people, their Lordships were pleased to withdraw their intended gift; but seeing, also, that the inhabitants of the province, by their representative in the Assembly, had showed their willingness to do their Lordships justice with respect to their rents, which made them hope that all differences would be entirely forgotten, they proceeded to appropriate the arrears of rent to the building of a state house and prison. To this act the Governor and the other Proprietors' deputies consented, without further consulting their Lordships.<sup>1</sup>

The next business of the General Assembly was to revise again the election law, and to make another apportionment of representation, the number of which they increased from thirty to thirty-six, as follows: St. Philip's parish was allowed five members instead of four; Christ Church two; St. John's three. A part of St. Andrew's had been cut off and made into a new parish, St. George's, so St. Andrew's lost one member, but St. George's was given two, a gain of one to the old parish. St. James,

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 44-49.



Goose Creek, was also given an additional member, making its representation four members; St. Thomas and St. Dennis three; St. Paul's four. An additional member was given respectively to St. Bartholomew and St. Helena, making three representatives from each. Winyaw was added to St. James, Santee, and the two were allowed together two members.<sup>1</sup> The Assembly laid duties on negroes, liquors, and other goods and merchandise imported to and exported out of the province, for raising a fund towards defraying the public charges and expenses of the government;<sup>2</sup> and passed an act for raising £70,000 on lands and negroes, for defraying the public debt, sinking the public orders, and calling in and cancelling the sum of £30,000 outstanding on bills of credit over and beside the bank bills.<sup>3</sup> A commission was provided to regulate the Indian trade; the commissioners appointed were Colonel Thomas Broughton, Colonel George Logan, and Ralph Izard, Esq.<sup>4</sup> These acts were all ratified on the 20th of March, 1718-19, and were the last attempted legislation under the Proprietary Government.

It was while the General Assembly was thus engaged in providing for the sinking of the paper currency and in contriving to pay for their expedition against the pirates and their other contingent debts, and while it was said "they were never observ'd to be in so good a disposition towards the Proprietors, but were doing everything that could be asked of them," that an order to the Governor came to dissolve the Assembly forthwith and to call a new one, to be elected according to the ancient custom.<sup>5</sup>

This order, under the great seal of the province, was dated the 18th of July before (1718). It was signed by Carteret, Palatine, James Bertie for the minor Duke of

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 50-55.

<sup>2</sup> *Ibid.*, 56.

<sup>3</sup> *Ibid.*, 69.

<sup>4</sup> *Ibid.*, 86.

<sup>5</sup> *Proceedings of the People of So. Ca.* (Carroll), vol. I, 150.

Beaufort, Fulwar Skipwith for the minors Lord Craven, Maurice Ashley, John Colleton, and John Danson. Two shares were unrepresented, and two belonging to minors were represented by their guardians, who were thus incidentally exercising governmental powers.<sup>1</sup>

The first clause of this imperious decree stated that his Majesty had been pleased, by his order in council, to signify his Royal pleasure that the Lords Proprietors should forthwith repeal the act of the province whereby a duty of ten per cent was laid upon goods of British manufacture imported into the province; and that in obedience to his Majesty's command their Lordships declared the same repealed. Against this Royal mandate, whether constitutional or not, it was vain to protest, and the colonists accepted the repeal with submission.

But it was another matter altogether when, in the same instrument, the Proprietors proceeded to repeal other measures to which their representatives, the Governor, and the other members of the Council, deputies of the Proprietors, had solemnly assented and ratified. True, the Proprietors had always claimed the right, sitting as a Palatine Court in England, to negative the proceedings of the Assembly in Carolina; but the colonists, aware of the growing weakness of their Lordships' hold upon the charter at home, and more and more restless under the feeble and yet tyrannical rule of an irresponsible and indifferent body, were not now disposed to submit to such unjust dealings without a closer scrutiny into their right to enforce them.

The next measure to which their Lordships' order referred was that vexed one of the nomination of the Public Receiver. Finding, they said, this act to be inconsistent with the safety, welfare, and good govern-

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 30.

ment of the province, and inconsistent with the usage and custom of Great Britain, they declared the act giving the nomination of the Public Receiver to the House of Commons to be null and void. How there could have been a custom or usage upon this subject in Great Britain, it is difficult to conceive. Of course there was none. The question raised in 1707 in regard to this matter was one not free from fair doubt; but the Proprietors had acquiesced now for ten years in the assertion of the right of nomination by the Commons, and it was most unwise and impolitic to agitate the matter again at this time when their charter was so seriously threatened at home, especially as the colonists were just now disposed to renew their loyalty to their Lordships.

But the repeal of the act in regard to the election of the Receiver did not touch the people so sensitively as the order for the repeal of the law in regard to election. "We have likewise," said their Lordships, "read and considered two acts of assembly, the one entitled an act to keep inviolate and preserve the freedom of elections," etc.: "the other entitled an additional and explanatory act to the forgoing act, and finding the said two acts tend to the entire alteration and subversion of the constitution of the Province of South Carolina and are contrary to the laws and customs of Parliament in Great Britain we therefore do declare the said two last mentioned Acts to be null and void and we do hereby repeal nullifie and make void the said two acts and every clause matter or thing therein contained whatsoever."<sup>1</sup>

Nor was this all. The Yamassee lands, which had been recovered upon the expulsion of those Indians, had been appropriated, by the Proprietors' permission,<sup>2</sup> to

<sup>1</sup> *Statutes of So. Ca.*, vol. III, 31.

<sup>2</sup> *Ante*; *Coll. Hist. Soc. of So. Ca.*, vol. I, 164.



new-comers, in order to build up a more settled country between the Indians and the rest of the province. An act had been passed for the purpose, and under its provisions several hundred immigrants from Ireland had come out with the promise of 200 acres to each settler, at an expense of thousands of pounds expended by the colony to fetch them here.<sup>1</sup> This act was also repealed. "We have read also," wrote the Proprietors, "two other acts of the Assembly the titles of which are an act to appropriate the Yamassee lands to the use of such persons as shall come into and settle themselves in this Province etc: and an act to grant several privileges exemptions and encouragements to such of his Majesty's Protestant subjects as are desirous to come into and settle in this province — which two Acts being an encroachment upon the property of us the Lords Proprietors and tend only to the disposal of our estates to which the Assembly can pretend no manner of right, we therefore do declare the said two Acts to be null and void," etc.

The Indian Trade act they also repealed, because it was said several merchants in London had complained of it as a monopoly.

The communication announcing these repeals was received with the utmost astonishment and consternation by the Governor and Council, who had assented to these measures, supposing themselves to possess the confidence of the Proprietors — chosen, as they had so recently been, as their Lordships' deputies. There was one member of the Council, however, who did not share in the surprise, and who looked on, doubtless, with amusement and satisfaction at the alarm and embarrassment of his fellow-councillors, and that was Mr. Chief Justice Trott. It does not appear to have been known in the province that

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 294.

Trott was carrying on a regular correspondence with Mr. Shelton, the secretary of the Board of Proprietors, with the knowledge and approval of their Lordships themselves; but it was suspected that he was in private communication with them, and that this extraordinary action on their part had been brought about by Rhett and himself, "with whom," as it was said, "they had always too much influence either for their Lordships' or the people's good."<sup>1</sup> Trott and Rhett had exercised great political influence when the elections were all held at Charles Town, and they had opposed and obstructed the passage of the new election law, as it removed the elections from their control. This they resented and, it was correctly surmised, had communicated with the Proprietors upon the subject.

There were other and still stronger grounds of opposition to Trott. Though doubtless a man of great ability and learning, one to whom, as it has been seen, South Carolina is to this day indebted in a great measure for her system of laws, he was both corrupt and tyrannical as a judge. Richard Allein, the Attorney General, who had been the prosecuting officer in the recent trials of the pirates, and other practitioners of the law, charged him with many base and iniquitous practices.<sup>2</sup>

Just before the arrival of these unlooked-for orders there had been presented to the Assembly articles of complaint against the Chief Justice, thirty-one in number,<sup>3</sup> setting forth, "That he had been guilty of many Partial

<sup>1</sup> *Proceedings of the People* (Carroll), vol. II, 149.

<sup>2</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 241.

<sup>3</sup> There are no Journals of the Commons from 1718 to 1720. Probably they were lost in the revolution which took place in 1719. The account in the text follows, therefore, Yonge's *Narrative of the Proceedings of the People of So. Ca. in the year 1719*. London, MDCCXXVI; republished in Carroll's *Coll.*, vol. II, 141.

Judgments ; that he had contriv'd many Ways to multiply and increase his Fees contrary to Acts of Assembly, and to the great Grievance to the Subjects, and that among others he had contriv'd a Fee for continuing Causes from one Court (or Term) unto another, and then he put off the Hearing for several Years together ; that he took upon him to give Advice in Causes depending in his Courts, and did not only act as a Counsellor in that particular, but also had, and did draw Deeds, and other Writings between Party and Party, some of which had been contested before him as Chief Justice : in the determining of which he had shewn great Partialities with many other Particulars ; and lastly complaining that the whole Judicial Power of the Province was lodg'd in his Hands alone, of which it was evident he had made a very ill Use ; he being at that time sole judge of the *Pleas* and *King's Bench* and Judge of *Vice Admiralty* ; so that no Prohibition could be lodg'd against the Proceedings of that Court, he being in that Case to grant a Prohibition against himself ; he was also at the same time one of the *Council* and of consequence, of the court of *Chancery*."

These complaints of the attorneys who practised in the courts were fully substantiated to the Commons ; but Trott refused to recognize the authority of that body to act in the matter. He insisted that he was amenable only to the Proprietors themselves, from whom he had received his commissions, and could be impeached before no other body. The Commons thereupon sent a message to the Governor and Council desiring that they would join in a representation to their Lordships of Trott's maladministration of his offices, and to supplicate them that if they did not think fit to remove him entirely from presiding in their courts of justice (as the Commons desired), that they would at least restrict him to one single juris-



diction, that they might have liberty of appealing from his *sole* and too often partial judgments. The Governor and a majority of his Council agreed with the Commons to represent the grievances they complained of to the Proprietors.

It was at this juncture that the orders repealing the acts mentioned, and requiring the Governor to dissolve the Assembly, arrived. This the Governor and Council considered impracticable and dangerous at the time. The Commons had just passed acts to raise the funds for paying the expenses of the expeditions against the pirates, for meeting in part other debts of the province, and for maintaining the government. To dissolve the Assembly, and to declare its measures null and void, because not elected under the new election law, would be to cut off the means of carrying on the government, and the Governor and Council present in Carolina knew too well the condition of the people and the public sentiment to believe that any new Assembly, elected though it might be at Charles Town under the old system, would renew these grants of supplies or do anything that the Proprietors might wish. They took upon themselves, therefore, the responsibility of withholding this instruction and allowing the Assembly to proceed with its business. They communicated, however, to the Commons the repeal of the acts sent out by the Proprietors. The Commons denied the Proprietors' right of repeal. Messages passed between the two Houses upon the subject, and a general conference of both Houses was held, at which Mr. Chief Justice Trott made a speech, maintaining the authority of their Lordships for the purpose; to which the Commons replied. For this speech the Chief Justice was afterwards thanked by their Lordships. Recognizing the gravity of the situation, which the Proprietors did not appear at all to appre-

ciate, the Governor and Council determined to send one of their own number to England to inform the Proprietors personally of the situation, and to explain the reasons which had induced the withholding of their instructions to dissolve the Assembly, as well as to lay before them the complaints against Chief Justice Trott, and to confer with their Lordships upon sundry other matters. All this, it was thought, could better be done in person by one who had taken part in the councils and discussions in Carolina than by letter. Mr. Francis Yonge was selected for the purpose, was fully instructed, and sailed for England.

In the meanwhile the affairs of the colony in England were all steadily tending to the subversion of the Proprietors' charter. While Governor Johnson was so ably and gallantly contending with the pirates, he had not failed to represent to the Lords of Admiralty the danger to the colony from these public enemies, and to appeal to his Majesty's government that a frigate should be sent to the coast of Carolina as soon as possible.<sup>1</sup> Such an appeal, acknowledging the inability of the Proprietary Government to defend its territory, greatly strengthened the disposition of the Royal Government in some way to put an end to a charter which allowed the Proprietors the powers and privileges of rulers over a portion of his Majesty's subjects, without the correlative responsibility of affording them protection. The Lords of Admiralty ordered that a frigate should be sent. The Board of Trade and Plantations determined the more resolutely to get rid of the charter. To this resolve, Mr. Boone, the agent of the Carolina Commons, who was still in England, was urgent and zealous in pressing their Lordships.

The Proprietors had endeavored to persuade the board that Mr. Boone represented only a party or faction in the

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 258.

province, and not the people generally. In answer to this an address was signed not only by the members of the Commons, but by five hundred and sixty-eight others, — which was more than one-half of the (male) inhabitants of the province, — imploring to be taken under his Majesty's immediate government. In their address they say : —

“ We further take the liberty to inform your Majesty that notwithstanding all our miseries, the Lords Proprietors of the Province instead of using any endeavors for our relief and assistance are pleased to term all our endeavors to procure your Majesty's Royal protection the business of a faction or party. We most humbly assure your Majesty that 'tis so far from being anything of that nature that all the inhabitants of the Province (in general) are not only convinced that no human power but that of your Majesty can save them, but earnestly and fervently desire that this once flourishing Province may be added to those already under your happy protection.”

Upon the receipt of the address, Mr. Boone again memorialized the Commissioners of Trade and Plantation. “ I again make bold,” he said, “ to trouble your Lordships in this behalf at their request entreating your Lordships once more to represent to his Majesty the miseries and distresses of his Majesty's subjects the inhabitants of the province of South Carolina and the certain inevitable ruin that must attend those that continue to remain unless his Majesty will be graciously pleased to take them under his immediate protection.”

Upon the receipt of this memorial with the petition of the people of South Carolina, the Board of Trade forwarded it at once to Mr. Secretary Craggs, saying that they thought it proper to lose no time in communicating it, so that he might receive his Majesty's orders there-



upon. The board added: "Upon this occasion we cannot help repeating the advice which has frequently been given by the Board that the proper methods be taken for resuming of this and all other proprietary governments into the hands of his Majesty."<sup>1</sup>

Mr. Yonge arrived in London in the month of May, 1719. His mission was not, however, to the Board of Trade and Plantation or to assist Mr. Boone in his appeals to that body. It was rather to save the Proprietors from their interference that he had crossed the ocean. Immediately, therefore, upon his arrival he sought to obtain an audience of their Lordships.

The Board of Proprietors at this time consisted of but four members in their own right: Lord Carteret, the Palatine, the Hon. Maurice Ashley, Sir John Colleton, and John Danson. The minor Duke of Beaufort, as we have seen, was represented by the Hon. James Bertie; the minor Earl of Craven, by Fulwar Skipwith; the minor Joseph Blake in Carolina had no representative; and the original share of the Earl of Clarendon, which stood in the name of Nicholas Trott, of London, was still unrepresented, as the other Proprietors refused to recognize his title. It so happened that just at this time Lord Carteret, the Palatine, was about to begin his brilliant career as a diplomatist, and was preparing for his first embassy, — that to Sweden. In the careless arrogance of his character, it was scarcely to be expected that at such a time he would waste his thoughts upon the disagreeable affairs of Carolina. And so it happened that there was a repetition of the circumstances that, twenty-four years before, attended the efforts to obtain a meeting of the Lords Proprietors to send out one of their number to Carolina to settle the disturbed condition of affairs that then ex-

<sup>1</sup> *Public Records of So. Ca.*, vol. VII, 125 *et seq.*

isted in the colony. Then it will be remembered that weeks were spent before a quorum could be got together, and that in the end a quorum was only made by admitting to seats both Archdale and Amy, with their doubtful and conflicting titles. The business of the Proprietors had since been still more loosely conducted. Meetings of their Lordships—the Palatine Court, as it was at first grandiloquently styled—had been entirely neglected and dispensed with. Everything was left to the Secretary, Mr. Shelton, and Mr. Shelton was the friend of Trott and Rhett. He received and read the dispatches, and, it was charged, misrepresented their contents in the interests of his friends in Carolina. He drew the papers and instructions in reply, and carried them round to such of the Proprietors as were in London, or sent them by post to those who were not in town. It was not to be supposed that under these circumstances Mr. Yonge would easily obtain the audience he desired. Lord Carteret, to whom he applied as Palatine, referred him to the other Proprietors. Having waited on them two or three times, he seems at last to have obtained a meeting of some of them, to whom he submitted a memorial.

This memorial set out his commission from the Governor and Council of South Carolina to lay before their Lordships not only the several acts of Assembly passed at its last sessions for their approbation, but also to inform their Lordships of the reasons which induced the Governor and Council to defer dissolving the Assembly pursuant to their commands, and to lay before them the communication which had passed between the Governor and his Council on the one hand, and the Commons House of Assembly on the other, touching their Lordships' right of repealing laws ratified and confirmed by their Lordships' deputies. He presented, therefore, the speech made

by Mr. Chief Justice Trott, at the general conference of both Houses, and the Commons' answer thereto, with the several messages which passed between them, which he hoped would show that no arguments or endeavors were wanting on their part to assert their Lordships' right of repealing laws not ratified by themselves.

He represented to them that the Governor and Council would not have allowed this opportunity of disputing their Lordships' powers, but would have dissolved the Commons according to their commands, had it been possible to have done so, without the greatest injury to the country and to the merchants and other persons who had voluntarily furnished, or from whom necessary things had been pressed, for fitting out the two expeditions against the pirates, which amounted to £10,000, and for which the Commons had provided the payment, which it could not be expected another House would again agree to, considering the ill-humor their dissolution was likely to create. He represented that the repeal of the Imposition act, the duties of which were applied to the payment of the clergy, the maintenance of the garrison, and the payment of several public debts, left them no means of meeting orders which had been drawn, on the faith of that act, to the amount of £30,000. The enforcement of the repeal of the Indian Trading act might have brought those people down on the settlements and have occasioned another Indian war. It was absolutely necessary to provide some other means of sinking the £35,000 in bills of credit, since the act to do so had been repealed.

The above reasons, Mr. Yonge said, they presumed would convince their Lordships that the Governor and Council could not then immediately dissolve the Assembly, which had but six weeks to continue by their biennial act. "And it is with some pleasure," continued Mr.



Yonge, "that the Governor and Council can inform your Lordships that they think they have preserved any rights you were before possessed of, and at the same time have got such laws as with your Lordships' approbation will contribute much to settle the country, and give no offence to Great Britain."

Mr. Yonge then went on to explain several minor matters. The Governor and Council had frequently urged the Secretary, Mr. Hart, to transmit to their Lordships copies of the laws passed as required by their instructions, so that they might approve or signify their disapprobation of them; but Mr. Hart's difficulty was to get them transcribed, as the cost of doing so was £100 a year, besides books, pens, ink, and paper, while their Lordships' allowance to him for the whole was but £40. The Council, therefore, took the liberty of requesting their Lordships to augment the salary of the Secretary, or to allow a clerk, with competent salary, to attend the Council and transcribe such laws and other things necessary to be sent to them. Mr. Yonge stated further that the room the Council had sat in for the last four years belonged to Mr. William Gibbon, and they had promised Mr. Gibbon to ask for some compensation for its use; and that the Council thought it not unreasonable to ask some allowance for themselves to defray the expenses they were at in attending the Council, Court of Chancery, and Assembly, which took up one-third part of their time.

He was also directed to move their Lordships to procure custom house officers at the port of Beaufort, that town increasing very much in inhabitants, and it being a very great discouragement to them that they were obliged to bring all their produce to Charles Town.

It was the humble request and advice of the Governor and Council, as a thing that would lay a very great obli-

gation on the country in general, that their Lordships would grant 6000 acres of land *gratis* to the public for the use of three garrisons—at *Savannah Town*, the *Congarees*, and the *Apalachocoles*; and that some part of the land to the northward might be granted and disposed of on the same terms as the Yamassee lands in order to the settling and peopling the frontiers north and south.

As these, his memorial said, would be very great concessions which they hoped would dispose the people to make their Lordships such returns of duty and respect as they wished had always been done, and contribute to the peopling of the country, so they also hoped their Lordships would secure and preserve them in their properties (a much greater encouragement than all the rest) by putting it in their power to assert their undoubted right of appealing from any erroneous judgments in law, which right they are now debarred by the sole judicial power being lodged in the hands of Mr. Chief Justice Trott in the King's Bench, Court of Pleas, Court of Admiralty, and Court of Chancery; a trust never reposed in any one man before in the world, and which the General Assembly had desired them to join in asking their Lordships to remedy.

With the memorial Mr. Yonge delivered a letter from Governor Johnson, the articles of complaint against Chief Justice Trott, and an address from the Governor, Council, and Assembly that he might be removed or at least restricted to one single jurisdiction; also several acts of Assembly, one of which was for the better recovery of their quit-rents, with clause making it of no force unless approved by their Lordships.

Mr. Yonge was kept three months dangling in attendance upon their Lordships in the hope of satisfying them in anything they might have occasion to have

inquired into concerning the condition of the country, or the best means to allay the discontent and reconcile the people to their authority, which he complains was no more than he might have expected since they had done him the honor to appoint him their Surveyor General and one of their Council, since also "he had sailed five or six thousand miles for their service" as the Governor and Council had desired him. The Proprietors, or rather such of them as were managing affairs, took, however, a very different view of his embassy. He was given to understand that the business on which he was sent was extremely disagreeable to them; that both the trouble he had taken and the office he had accepted, as agent for the people, were inconsistent with his duty as one of their deputies, bound to act agreeable to their instructions.<sup>1</sup> They declared their displeasure with the members of the Council who had joined the Lower House against Trott and, to manifest how much they resented their conduct, they broke up the present Council and appointed another, consisting of twelve instead of the former number of seven, who, with the Governor as the deputy of the Palatine, represented the other seven proprietorships. In the new Council those who had joined in the complaint against Trott, viz. Colonel Thomas Broughton, the Governor's brother-in-law, Mr. Alexander Skene, and Mr. James Kinloch, were left out, and one of the Proprietors told Mr. Yonge that he had also been left out but was retained in respect to Lord Carteret, who was his patron.<sup>2</sup> This much Mr. Yonge appears to have learned. For the rest he was dispatched back to Carolina with sealed packets, amongst which, upon his arrival, was found the following letter to the Governor :—

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 245.

<sup>2</sup> *Hist. Sketches of So. Ca.*, 294.



“Sir. We have receiv’d and perus’d your Letters and all your Papers deliver’d us by your agent Mr *Yonge* and though we are favourably inclin’d in all our Thoughts relating to our Governor, yet we must tell you we think you have not obeyed your Orders and Directions given to you to Dissolve that Assembly and call another forthwith according to the ancient Usage and Custom of the Province; and to publish our Repeals of those Acts of Assembly immediately upon the receipt of our Orders aforesaid: But we shall say no more upon the subject now, not doubting but our governour will pay a more punctual obedience to our Orders for the future.

“The *Lords Proprietors* Right of Confirming and Repealing Laws was so particular a Privilege granted to them by the Crown that we can never recede from it; and we do assure you that we are not a little surprised that you should suffer that prerogative of ours to be disputed.

“We have sent you herewith an Instruction under our Hands and Seals nominating such persons as we think fit to be of the *Council* with you six whereof and yourself and no less Number to be a *Quorum*. Upon your Receipt of this we hereby require you to summon the said Council that they may qualify themselves according to Law and immediately sit upon the Dispatch of business.

“We also send you the Repeal of the Acts of Assembly which we Order you to publish immediately upon the receipt of this.

“We do assure Mr *Johnson* that we will stand by him in all Things that relate to the just Execution of his Office and we are Confident that he will perform his duty to us and support our Power and Prerogatives to the best of his Abilities.

“If the Assembly chosen according to your *pretended late Act* is not dissolv’d as we formerly Order’d and a New Assembly Chosen pursuant to the Act formerly confirm’d by the *Proprietors* you are forthwith Commanded hereby to dissolve that Assembly and to call another, according to the above mention’d Assembly so we bid you Farewell.”

Lord Carteret’s name was put to this document, not by himself,—he was absent on his mission to Sweden,—but by Mr. Ashley, who had a power to act for his Lordship. Mr. Bertie signed for the minor Duke of Beaufort. The other signatures were those of Maurice Ashley, Sir John Colleton, and John Danson; and so this fatal act was,

in fact, the act of but three of the actual Proprietors, and those the least influential of any who had been Proprietors of the province.

With this letter they sent the instrument mentioned in it, under their hands and seals, appointing the twelve members of the new Council. These were William Bull, Ralph Izard, Nicholas Trott, Charles Hart, Samuel Wragg, Benjamin De La Consiliere, Peter St. Julien, William Gibbon, Hugh Butler, Francis Yonge, Jacob Satur, and Jonathan Skrine.<sup>1</sup> They now, also, again repealed the Duty act and the other objectionable measures, and, instead of granting land for the use of the garrisons, they gave strict orders that no more land should be granted to any person whatsoever, but ordered fifteen baronies, each consisting of 12,000 acres, to be laid out for their own private use as near as might be to Port Royal. The complaints against Trott they sent to him that he might answer them, and with them a letter of thanks for the speech he had made at the conference of the two Houses, in support of their right to repeal what laws they chose.<sup>2</sup>

Governor Johnson was in a most humiliating position. The result of Mr. Yonge's embassy was a severe reprimand and peremptory orders to obey his instructions—instructions which he well knew would endanger the authority of the Proprietors. But, brave as he had shown himself against the pirates, he quailed before the insignificant men who now recklessly controlled the Proprietary Government. "Assured," says Yonge, "that Mr. Trott was to rule the Province tho' he had the name of it . . . he resolved for the future to act by his and the new Councils advice that they might be answerable

<sup>1</sup> *Hist. Sketches of So. Ca.*, 293, note.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 195.

for any ill effects their future councils and transactions might produce." In pursuance of his orders, he called his new Council and qualified such of them as would serve. Who they were who refused to qualify is not certainly known; but, from subsequent proceedings, Bull, Izard, Hart, De La Consiliere, Butler, and Satur, with Trott, appear to have qualified. The Governor declared the three acts repealed, and by proclamation dissolved the Assembly and called a new one, to be chosen at Charles Town as before the act of 1716.

"Thus," says Yonge, "the People were irritated and heated to a violent Degree, and the Basis of all Government being either *Love Fear* or *Interest* or perhaps any two, or a Mixture of all the three, but in this there was neither one nor the other; for they thought they had no Reason to *love* the *Proprietors* who not only refused them Justice but protected and countenanc'd an Evil Minister in an Office which most immediately affected their Lives and Properties, who refused to part with the Uncultivated Lands either for the Public or any Private use but their own; tho' it is apparent by their Charter it was granted to them to be disposed of in such a Manner as to encourage his Majesty's Subjects to go over and settle there and to extend his Dominions; and they had just before promis'd it in Tracts of 200 Acres to new Comers, on which Promise several Hundreds had come from *Ireland*, but could not have a Yard of Land to settle on when they came, and this notwithstanding the Country had been put to the Expense of paying some thousands of Pounds for their Passage to *Carolina*, so that thus the Number of Inhabitants could not be increas'd nor their Frontiers strengthened, neither would they allow them the Freedom they desir'd, and what was the Practice of other Colonies in chusing their Repre-



sentatives *nearest the methods used in* England, which their Laws are to be by the express Words of the Charter. Another reason for their not loving the Proprietors is the same that made them not fear them *i.e.* their Inability to succour and protect them, either from their own Intestine Enemies, the *Indians*, or from the *Spaniards* with whom at that time there was a War; for it is very natural to think that if they could not send Forces to assist them, it would be as difficult to correct them; and lastly they judg'd it plainly their Interest to be under the Crown who could and would protect them, and also (as they hoped) to put them in the same Circumstances with his Majesty's other Colonies in *America* who they found had proper Assistance from the Crown. As there was therefore neither *Fear*, nor *Love*, nor *Interest* to support the Government how could it long subsist?"

## CHAPTER XXIX

1719

THE Governor had called the new Assembly according to his instructions to be chosen at Charles Town. But now Colonel Rhett and the Chief Justice found themselves mistaken in supposing they could continue their old influence to have such members chosen as they desired, even though the election was held for their convenience in the town and under their immediate supervision. It proved quite the contrary. They could not get so much as a single member chosen in their interest. The people were so incensed against the Lords Proprietors that it had become dangerous to say anything in their favor.

To complicate matters still further, a rupture having taken place just before this between the courts of Great Britain and Spain, a project for attacking South Carolina and the Island of Providence was formed at Havana. The time for the meeting of the new Assembly had not yet arrived; but, learning of this threatened invasion, Governor Johnson felt himself obliged to call his Council and such of the newly elected members of the Assembly as he could get together. These he informed of the advices he had received, and appealed to them to consider the ill condition of the fortifications and the necessity of immediately repairing them. This he proposed to do by voluntary subscription until the Assembly could provide for the work, and to show an example he himself

subscribed £500. The members of the Assembly replied that there was no occasion for this irregular and inefficient means of providing the funds necessary; that the Duty act would amply supply them. The Governor reminded them that that law was repealed. To this answer was made that the Public Receiver was ordered to sue any man that refused to pay as that law directed, its repeal not being recognized. Mr. Chief Justice Trott here interposed and announced that if any such action was brought in *his courts*, — for so he always spoke of the courts of the province, — he would give judgment for the defendant. The conference broke up without doing anything, the members of the Assembly determining rather to run the risk of the Spaniards than to acknowledge a right in the Proprietors of repealing their laws. Failing to obtain support from the civil branch of his government, the Governor turned to the military. He summoned the field-officers of the militia, to give them orders for a review of their regiments and to determine upon a rendezvous in case of the approach of the Spaniards. The officers received their orders as usual, and mustered their regiments at the time appointed. This afforded the very opportunity the leaders of the people had desired. Articles of an association had been prepared in advance, and when the militia assembled, it was signed almost without exception. The whole province was brought into a confederacy against the Proprietors without the knowledge of the Governor.

Among those elected to the new House of Assembly was Alexander Skene, who had been in the Council, and was one of those who had been removed by the Proprietors for taking part in the remonstrance against Trott and Rhett. Mr. Skene had come from Barbadoes, where he had held a patent office, — the first of such appoint-



ments in the government of that island, — that of Secretary of the colony and private Secretary of the Governor. A dispute had arisen between the Governor and himself as to his fees, upon which the Governor had claimed the right to nominate his own private Secretary. The dispute had lasted several years, but had been ultimately decided in Mr. Skene's favor, and Queen Anne's letters mandatory had given him possession of all his rights and perquisites as private as well as public Secretary.<sup>1</sup> It might have been supposed that the Carolina colonists had enough experience in controversies to have been quite competent to manage such a business, but Mr. Skene, coming from Barbadoes, where he had so successfully withstood the Governor, "was looked upon as a man that understood public affairs very well." Considering himself ill-used by the Proprietors, he readily became a leader in this movement, and was zealous and active in pulling down the tottering form of their government. His experience and resolute character fitted him for planning and consummating a revolution, and he exerted especial influence in the private meetings of the members of the Assembly.

The first notice the Governor had of the certainty of the movement was by a letter of Mr. Skene, Colonel Logan, and Major Blakeway, dated November 28, 1719, in which they wrote they had no doubt that he had heard that the whole province had entered into an association to stand by their rights and privileges and to get rid of the oppression and arbitrary dealings of the Lords Proprietors. They assured him personally of the greatest deference and respect, and informed him that a committee of the people's representatives were last night appointed to wait upon his Honor that morning, to acquaint him that they were come to the resolution to have no regard to the Lords

<sup>1</sup> *Hist. of Barbadoes* (Poyer), 171, 196.

Proprietors' officers nor other administration ; and withal to beg his Honor would hold the government for the King till his Majesty's pleasure be known. They went on to say that the great value the whole country expresses for his Honor's person makes them desirous of having nobody but himself to govern them.

"That we are of opinion," they said, "that your Honor may take the Government upon you, upon the offer of the People for the KING and represent the *Proprietors*, That rather than the whole Country should be in Confusion and want a Governing Power you held it for their *Lordships*; tho' you were oblig'd to comply with the Province who were unanimously of opinion they would have no *Proprietors* government."

They said they could wish for a longer and better opportunity to explain the affair to him, but it was impossible, as the gentlemen would be with him in two hours at the furthest.

The Governor, who was at his plantation about five miles off when he received this letter, came immediately to town and summoned such of his Council as he could get together (these were Mr. Izard, Judge Trott, Mr. Hart, Mr. de La Consiliere, Colonel Bull, Mr. Butler, and Mr. Jacob Satur), and informed them what he had heard and that he had met Mr. Skene and Mr. Brailsford, who told him that those who were to have waited upon him had changed their minds and gone to their respective homes. He asked the Council's opinion what was proper to be done. They unanimously advised him that, considering the parties had altered their resolution of waiting on their Governor and gone home, no further notice should be taken of their proceedings until the Assembly met and the matter should be revived.

The gentlemen who were members of the new House

continued privately to meet and to strengthen and establish the association, which now comprised almost every one in the province, "except some few who more immediately belonged to the Proprietors." Having thus fortified themselves by the consent of the people, they met according to the tenor of their writs on the 10th of December, 1719, and the Governor sending them a message, as usual, that he was ready with the Council to receive them and to order them to choose a Speaker, they came in a body; whereupon Mr. Middleton delivered himself in the following manner:—

"I am order'd by the Representatives of the People here present to tell you, that according to your Honour's order we are come to wait upon you; I am further Order'd to acquaint you, that we own your Honour as our Governour, you being approv'd by the King; and as there was once in this Province a legal Council Representing the *Proprietors* as their Deputies, which Constitution being now alter'd, we do not look upon the Gentlemen present to be a legal Council; so I am order'd to tell you, That the Representatives do disown them as such and will not act with them on any Account."

This speech was delivered in writing at the Governor's desire and signed by Mr. Middleton, as President, and twenty-two more of the Assembly.

Anticipating a dissolution, this body had resolved, probably before presenting the address, that the three laws which the Proprietors had repealed when they had appointed the new Council—to wit, (1) the act declaring the right of the House of Commons to nominate a Public Receiver; (2) the act laying an imposition on importations; and (3) the act for electing the representatives by parishes—were still in force and could not be repealed but by the General Assembly. They also resolved:—



“That the Writs whereby we the Representatives here met were elected are illegal: First Because they are sign’d by such a Council as we conceive, the *Proprietors* have not a power to appoint.

“Secondly for that their Council does consist of a greater Number of Members than the *Proprietors* themselves are which we believe is contrary to the Design and original Intent of their Charter, and approaching too near the Method taken by his Majesty and his Predecessors in his Plantations whom they might not pretend to imitate or follow. His Majesty not being confin’d to any Number in his Council in his Plantations but as he thinks fit himself; but the *Proprietors* as subjects, we believe are bound by a Charter.

“Thirdly were there no Doubt of the Legality of the Council yet according to the *Proprietors* Instructions, there was not a sufficient Number to dissolve the last Assembly, one of the Council Signing being a Foreigner, not Naturalized, and consequently not capable of doing any Act of Government in any of the *British* Dominions and expressly contrary to the *Lords Proprietors* Charter; and a high Act of Presumption in them thus to impose upon His Majesty’s Free People of the Province for the aforesaid Reasons.”

They further resolved: “That we cannot Act as an Assembly but as a Convention delegated by the People to prevent the utter Ruin of this Government if not the Loss of the Province, until His Majesty’s Pleasure be known.

“That the *Lords Proprietors* have by such their Proceedings unhing’d the Frame of Government and forfeited their Right to the same; and that an *Address* be prepared to desire the Honourable *Robert Johnson* Esq. our present Governor to take the Government upon him

in the King's name, and to Continue the Administration thereof until His Majesty's Pleasure be known."

These bold proceedings were well calculated to alarm the Governor, and there was consternation in his Council, and doubt as to their course; were rough or gentle means to be used? Trott quailed before the people, and, with a majority of the Council, advised that the defection was too general to admit the use of any other means than mild expostulations. If these failed, then the Assembly might be dissolved, which would make them disperse, and so put an end to the dispute for the present. But, in that case, how could money be raised to prepare for the Spaniards, who were daily expected? The Lords Proprietors had repealed the duty law, which repeal they were bound to respect. The result of these deliberations was a message to the Commons that the Governor and Council desired a conference with them. The Commons answered that they would not receive any message or paper from the Governor in conjunction with the gentlemen he called his Council. Thus constrained, the Governor sent for them in his own name, and delivered them a long and earnest speech, pleading and arguing with them, and threatening them; but all in vain. The Assembly was neither to be shaken by persuasion, nor intimidated by threats. In the course of this speech, the Governor said: —

"I do require and Demand of you therefore and expect you to Answer me in plain and positive Terms Whether you own the Authority of the *Lords Proprietors* as Lords of this Province, and having Authority to Administer or Authorise others to Administer the Government thereof; saving the Allegiance of Them and the People to His Most Sacred Majesty King George? Or Whether you absolutely renounce all Obedience to Them and Those Commission'd and Authoris'd by Them? Or Whether you

admit their General Power and only dispute that particular Branch of their Authority in Constituting a Council after the Manner they have now done?"

The Commons did not long consider this lengthy speech, which was delivered to them in writing, but soon returned with the following message : —

"We have already acquainted you, That we would not receive any Message or Paper from your Honour in Conjunction with the Gentlemen you are pleas'd to call your Council ; therefore we must now again repeat the same, and beg Leave to tell you, That the Paper your Honour read and deliver'd to us we take no Notice of, nor shall we give any farther Answer to it, but in *Great Britain*."

Immediately after, the Commons, however, returned with another address to the Governor, assuring him of the universal affection, deference, and respect the inhabitants throughout the whole country bore to his Honor's person, and their desire for a continuance of his gentle and good administration ; "and since we," they said, "who are entrusted with and are the Assertors of their Rights and Liberties are unanimously of Opinion, that no Person is fitter to Govern so Loyal and obedient a People to his Sacred Majesty King GEORGE so we more earnestly desire and entreat your Honour to take upon you the Government of this Province in his Majesty's name 'till his Pleasure shall be known, by which Means we are convinc'd that this (at present) unfortunate Colony may flourish as well as those who feel the happy Influence of his Majesty's immediate Care.

"As the Well being and Preservation of the Province," they continued, "depends greatly on your Honour's complying with our Requests so we flatter ourselves that you who have express'd so tender a Regard for it on all Occasions and particularly in Hazarding your own Person in



an Expedition against the Pirates for its Defence, an Example seldom found in Governors; so we hope, sir, that you will exert yourself at this Juncture for its Support; and we promise your Honour on our Parts the most faithful Assistance of Persons duly sensible of your Honour's great Goodness, and big with the Hopes and Expectations of his Majesty's Protection and Countenance.

“And we farther beg Leave to assure your Honour that we will in the most Dutiful Manner Address His Most Sacred Majesty King GEORGE for the Continuance of your Government over us under whom we doubt not to be a Happy People.”

To this appeal, which was doubtless made in all sincerity, for both the present Governor and his father, Sir Nathaniel Johnson, were endeared to the people by distinguished and heroic services, the Governor returned the following answer:—

“Gentlemen—I am Oblidg'd to you for your good Opinion of me; but I hold my Commission from the *true and absolute Lords and Proprietors of this Province* who recommended me to His Majesty, and I have His Approbation; it is by that Commission and Power I Act, and I know of no Power or Authority can dispossess me of the same, but only those who gave me those Authorities. In Subordination to them I shall always Act, and to my utmost maintain their *Lordships* just Power and Prerogatives without encroaching on the People's Rights and Privileges. I do not expect or desire any Favour from you only that of seriously taking into your Consideration the approaching Danger of a Foreign Enemy and the Steps you are taking to involve yourselves and this Province in Anarchy and Confusion.”

That afternoon the Governor issued a proclamation dissolving the Assembly; but the Convention, as the

Assembly now called themselves, following the precedent established in England by Parliament upon the abdication of James, ordered the proclamation torn from the Marshal's hands, and issued a proclamation in their own names, which directed all officers, civil and military, to hold their offices and employments until further orders from them. Finding that Governor Johnson would not come into their movement, they resolved to have a Governor of their own choosing, and Colonel James Moore, who was commander-in-chief of the militia in the late Indian War, but had lately been removed for his active opposition to the authority of the Proprietors, was chosen.

On Monday, the 21st of December, 1719, Governor Johnson, having been informed that the Convention intended to proclaim their Governor in the King's name, came to town and wrote circular letters to his Council to meet him ; but they did not respond. The Governor had previously had a conference with Colonel Parris, the commanding officer of the militia of the town, upon whose support he relied, and because of the advice he had received from Havana, had ordered the town companies to be reviewed on this day, the 21st. Finding, however, that the members of the Convention had availed themselves of this opportunity, and had determined upon that day to proclaim their Governor, when the people should come together with arms in their hands, he had, on the Saturday before, countermanded the order for the review, and had given particular orders to Colonel Parris that he should not suffer a drum to be beat in the town. The Governor understood that he had assurances from Colonel Parris that his orders should be obeyed. He was greatly surprised, therefore, when, upon coming into town early on Monday morning, he found the militia drawn up in the market-place, with colors flying at the forts and on

all the ships in the harbor, and the people, with great solemnity, preparing for proclaiming their Governor.

Upon this, Governor Johnson, amiable as he was, lost his temper and with it his dignity. Advancing to Colonel Parris, he asked how he durst appear in arms contrary to his orders? and commanded him in the King's name to disperse his men. Colonel Parris answered he was obeying the orders of the Convention, and the Governor approaching, he ordered his men to present their muskets and bade him stand off at his peril. Governor Johnson hoped that some of the gentlemen would have joined him, but the defection was so general that there was hardly a man not in arms, and only one of his Council came near him. This was Mr. Lloyd, and he, it afterward appeared, was sent by the Convention party, under the guise of friendship, to be on hand to prevent any hot action to which the Governor might be provoked. Two days afterwards Mr. Lloyd was sworn into the new Council. Even Trott and Rhett, in this extremity, forsook the Governor and kept at a distance, the silent and inactive spectators of the ruin of the cause of the Proprietors they had done so much to promote.

The members of the Convention now appeared and marched to the Fort, and there proclaimed James Moore Governor of the province, in the name of the King, amidst the acclamations of the populace.

Upon their return, they proceeded to the election of twelve councillors, after the manner of the Royal Government. Of these Sir Hovenden Walker was made President.<sup>1</sup> The government thus established consisted of a

<sup>1</sup> Sir Hovenden Walker had been an admiral in the British service and had commanded the naval part of the unsuccessful expedition sent out by St. John (Bolingbroke) in 1711 for the conquest of Canada. *England in the Eighteenth Century* (Lecky), vol. I, 115. He had been Deputy Governor of North Carolina. *Colonial Records of No. Ca.*, vol. I, 529. This is his only public appearance in South Carolina.



Governor, Council, and Convention ; but the Convention soon voted themselves an Assembly, and, as such, made laws and assumed the power of appointing all officers. Nicholas Trott was immediately removed, and Richard Allein was made Chief Justice. A Secretary and Provost Marshal were appointed, and it was declared that no one should be capable of bearing an office in the province who owned the authority of the Lords Proprietors except as to such offices as related to their own particular revenues and property. The persons holding such offices were Mr. Rhett and Mr. Yonge, the Receiver of the Proprietors' revenues and the Surveyor General of the Proprietors' lands. Rhett thus escaped personally the effects of the revolution, which his conduct had done so much to bring about. Colonel John Barnwell was chosen agent for the province, and sent to England with instructions and orders to apply to the King and lay a statement of the proceedings of the people before his Majesty, beseeching him to take the province under his immediate care.

In the meanwhile the Convention published the following declaration of the causes which had led to the revolution :<sup>1</sup> —

“Whereas the Proprietors of this province have of late assumed to themselves an arbitrary and illegal power of repealing such laws as the General Assembly of the settlement have thought fit to make for the preservation and defence thereof and acted in many other things contrary to the laws of England and the charter to them and us free-men granted; whereby we are deprived for those measures we have taken for the defence of the settlement, being the south west frontier of his Majesty's territories in America, and thereby left naked to the attacks of our inveterate enemies and next door neighbors the Spaniards from whom through the divine Providence we have had a miraculous deliverance, and daily expect to be invaded by them according to the repeated advices we have from time to time received

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 276.

from several places : And whereas pursuant to the instructions and authorities to us given, and trust in us reposed by the inhabitants of this settlement, and in execution of the resolutions by us made we did in due form apply ourselves in a whole body by an address to the honourable Robert Johnson appointed Governor of this province by the Lords Proprietors and desired him in the name of the inhabitants of this province to take upon him the government of the same, and in behalf of his Majesty the King of Great Britain France and Ireland until his Majesty's pleasure had been known which the said Governor refusing to do, exclusive of the pretended power of the Lords Proprietors over the settlement, has put us under the necessity of applying to some other person to take upon him as Governor the administration of all the affairs civil and military within the settlement in the name and for the service of his most sacred Majesty, as well as making treaties alliances and leagues with any nation of the Indians until his Majesty's pleasure be further known : And whereas James Moore a person well affected to his present Majesty and also zealous for the interest of the settlement now in a sinking condition has been prevailed with pursuant to such our application to take upon him in the King's name and for the King's service and safety of the settlement the above mentioned charge and trust : We therefore whose names are hereunto subscribed, the Representatives and delegates of his Majesty's liege people and free born subjects of the said settlement now met in convention at Charles Town, in their names and in behalf of his sacred Majesty George by the grace of God King of Great Britain France and Ireland, in consideration of the former great confidence in his firm loyalty to our most gracious King George, as well as in his conduct, courage, and other great abilities ; do hereby declare the said James Moore his Majesty's Governor of this settlement, invested with all the powers and authorities belonging and appertaining to any of his Majesty's governors in America till his Majesty's pleasure herein shall be further known. And we do hereby for ourselves and in the name and on the behalf of the inhabitants of the said settlement, as their representatives and delegates, promise and oblige ourselves most solemnly to obey maintain assist and support the same James Moore in the administration of all affairs civil and military within the settlement as well as in the execution of all his functions aforesaid as Governor for his sacred Majesty King George. And further we do expect and command that all officers both civil and military within the settlement do pay him all duty and obedience as his Majesty's Governor, as they shall answer to the contrary at their utmost peril.



Given under our hand at this convention this 21<sup>st</sup> day of December 1719."

Governor Johnson, after this solemn and public declaration, recognized that the government of the Proprietors was totally overthrown, and that the current of popular sentiment was too violent and strong to withstand. His only hope for their Lordships now was that the revolutionists would not long remain in a state of union, harmony, and peace among themselves; but would soon divide again into the old parties. The first unpopular step of their Governor might create disturbance and disaffection. His policy, therefore, was quietly to wait for such occurrences, ready to take advantage of them whenever they should appear. In the meantime, he called together the civil officers of the Proprietors, and ordered them to secure the public records, and to close their offices.<sup>1</sup>

His next step was to report an account of the proceedings to the Proprietors. This he did in a carefully prepared statement which he transmitted to their Lordships. He told them that the colonists had long labored under difficulties and hardships by debts contracted in the Indian wars, and in protecting their trade against pirates. He spoke of the unhappy differences between their Lordships and the people about the privileges of their charter. He told them that some of the richest of the inhabitants had persuaded the rest that neither they themselves nor their posterity could ever be safe in their persons, or secure in their properties, without the protection of the Crown; that they had, therefore, with one accord, disclaimed and renounced all obedience to their Lordships, and put themselves under the care and government of the King; that he, though earnestly solicited by them, had refused to

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 278.



govern them in any other way than as commissioned and appointed by the Lords Proprietors ; that the people had, thereupon, shaken off his authority, and chosen another Governor for themselves in the name and in behalf of the King. He was in no wise responsible for the revolution. It had not been occasioned by his imprudence or maladministration, and, therefore, he hoped whatever might be the issue, that their Lordships would use their influence to continue him in the government of the province.

Having thus performed his duty to the Proprietors, he wrote also to the Lords of Trade and Plantations, giving them a similar account of the proceedings of the people and the overthrow of the Proprietary Government, and made an appeal to them that if they accepted the government for his Majesty that he should be commissioned by them as Governor.

“That he apprehending himself bound in Honour to Govern Those People in no other Way than as he was Commission’d by the *Lords Proprietors* and *instructed* by his Majesty to whom he had always been a Faithful and Loyal subject, and the people having for that Cause disown’d his Authority, with that of the said *Lords* he humbly hop’d their Lordships would interest themselves so far that if His Majesty thought fit to take the Government into His own Hands, he might be honour’d with his Majestys immediate Commission, or otherwise that he might be restor’d to his Government as formerly by his Majestys special Command ; the present Disturbances not being in any wise owing to his Male-Administration as might appear by the *Address* of the People to him, a copy of which he enclos’d them.”<sup>1</sup>

In the meanwhile the new government proceeded with

<sup>1</sup> *Proceedings of the People* (Yonge) ; Carroll’s *Coll.*, vol. II, 184 ; Hewatt’s *Hist. of So. Ca.*, vol. I, 281–282.

the business of the country. A new duty law, and others for raising money to defray the various expenses of the government, were passed. To their new Governor they voted £2500, and to their Chief Justice £800 current money as yearly salaries. To their agent in England £1000 sterling was transmitted, and to defray those and the other expenses of the government an act was passed laying a tax on lands and negroes. In short, says Hewatt, the popular Assembly imposed such burdens on their constituents as under the Proprietary Government would have been deemed intolerable grievances.

Governor Johnson and some of his party refused to pay this tax, as they did not recognize the authority of the Assembly which imposed it. On account of his peculiar position Governor Johnson himself was exempted; but it was rigidly enforced against all other persons. Though unable actively to oppose the new government, Governor Johnson omitted no opportunity to throw every obstacle in its way. He would have most seriously embarrassed its operations had Rhett acted with him in the interests of the Proprietors; but Rhett was now making terms with their opponents.

Colonel Rhett was not only the Proprietors' Receiver General, but also the Comptroller of the King's customs. To him, therefore, Governor Johnson wrote, proposing that as all masters of ships were, under the laws of trade, obliged to take out their clearance from him as the Comptroller of customs, he might refuse to allow any ship to be cleared by the custom-house officers until the masters had paid their duty to him as Public Receiver. By this means the fees due to the Governor and Secretary would have found their way in their regular channel, as the masters of vessels would most readily have gone where they could have obtained the most authentic clearances.

But Rhett was no friend to Governor Johnson, and was besides, at this time, looking to his interests under the new government; so he refused to act as Johnson desired in this matter, and for this essential service he was at once made, by the revolutionary government, Overseer of the Repairs and Fortifications in Charles Town, — a most lucrative position, and at the same time accepted the position from Governor Moore of Lieutenant General of the Militia. Yet, strange to say, he still continued to maintain his credit with the Lords Proprietors, to whom he wrote on the occasion to assure them that he accepted the commission from Mr. Moore only because it might give him an opportunity to bring the people over again to their interest. The Proprietors believed him, and sent him a letter of thanks and a confirmation of his former commissions from them.<sup>1</sup>

And now came further and certain advices that the Spaniards were actually fitting out a fleet at Havana to attack Providence and South Carolina; but it was uncertain which place they would first assail. The new government proclaimed martial law, and ordered all men to repair in arms to Charles Town. Governor Johnson seized the opportunity of making one more appeal to the people, and addressed the following letter to the Convention, who now styled themselves an Assembly:<sup>2</sup>—

“Gentlemen: I Flatter myself that the Invasion which at present threatens the Province has awaken’d a Thought in you of the Necessity there is of the Forces acting under a Lawful Authority and Commission. The Inconveniences and Confusion of not admitting it are so obvious I need not mention them. I have hitherto born the Indignities put upon me, and the Loss I sustain by being put out of

<sup>1</sup> *Proceedings of the People* (Yonge); Carroll’s *Coll.*, vol. II, 186.

<sup>2</sup> *Ibid.*, 187.



my Government with as much Temper as the nature of the Thing will allow of 'till such time as His Majestys Pleasure shall be known; but to have another assume my Authority when Danger threatens the Province and Action is expected, and to be depriv'd of the Opportunity of Serving the Public in my Station as I am indispensably bound to do upon such Occasions I being answerable to the King for any Neglect regarding the Welfare of the Province is what I cannot set down patiently with.

“Gentlemen,” continued Governor Johnson, “I am willing to consult and advise with you for the Good and Safety of the Province in this Time of imminent Danger as a *convention* of the people as you first call'd yourselves. Nor do I see in this present Juncture of Affairs any Occasion of Formalities in our Proceedings or that I explain by whose Authority I Act in Grants of Commissions or other Public Orders. Mr. *Moor's* Commission you have given him does not pretend to say it is deriv'd from the King. You have already confess'd I am invested with some authority you do approve of, and that is enough.

“What I insist upon is To be allow'd to Act as Governor because I am approv'd by the King; I do not apprehend at present there is a Necessity of Acting anything but what relates to Military Affairs; and I do believe People will be better satisfi'd and more ready to advance Necessaries, to trust the Public, and to obey my Commands (by Virtue of the King's Authority which I have) if left to their Liberty, than any other Person in this Province and in a short Time we may expect His Majesty's Pleasure will be known.

“If my Reasons have not the Weight with you I expect they should, you ought at least to put it to a Vote; that if a majority be against it I may have that to justify myself to the King and the World who ought to be sat-

isfi'd that I have done all I can to serve the country, and do my Duty in my Station."

The Convention did not think fit to give any answer to this letter, but continued the government as they had begun. For some reason Sir Hovenden Walker was displeased, and refused to act longer with the revolutionary party. He retired to his plantation, and Mr. Richard Allein was chosen President of their Council in his stead.

The fortifications were repaired under the supervision of Colonel Rhett; but the work, though costing a great sum of money, was done so slightly that in a little time it was as much out of repair as ever. The whole country was in arms for more than a fortnight, every day expecting the appearance of the Spanish fleet, which it was known had sailed from Havana. Happily, the Spaniards had determined first to attack Providence, and then to proceed against Carolina; but by the conduct and courage of Captain Woodes Rogers, at that time Governor of the island, they were repulsed, and soon after the greater part of their fleet was lost in a storm.

The Spanish expedition having failed, the man-of-war *Flambourgh*, commanded by Captain Hildesly, came from Providence, and took up her station at Charles Town; and about the same time his Majesty's ship *Phænix*, commanded by Captain Pierce, arrived from a cruise. The arrival of these vessels of war renewed the intrigues of both parties. The commanders were courted by both. They publicly declared for Governor Johnson as the magistrate invested with legal authority. This greatly encouraged Governor Johnson's party; and having the records in his possession, and the clergy refusing to marry without his license, as the only legal Ordinary in the province, the inconveniences began to be felt, and to cool the people in their support of the popular govern-

ment. Thus emboldened, Governor Johnson, with the assistance of the commander of the ships of war, made one more attempt to recover his authority. He brought up the ships of war in front of the town, and threatened it with immediate destruction if the people any longer refused obedience to him. But the people having both arms in their hands and forts in their possession, with seventy pieces of cannon mounted on their ramparts and near 500 men beside them, bid defiance to the Governor and his men-of-war. The Governor, seeing, therefore, that the people were neither to be won by persuasion nor terrified by threats, abandoned the struggle, and the Proprietary Government was at an end.<sup>1</sup>

<sup>1</sup> *Proceedings of the People* (Yonge) ; Carroll's *Coll.*, vol. II, 189, 190 ; Hewatt's *Hist. of So. Ca.*, vol. II, 286-288.



## CHAPTER XXX

1720-29

COLONEL JOHN BARNWELL was already on his voyage to England, the envoy of the Convention, to appeal to his Majesty King George for a confirmation of the revolution they had accomplished in the overthrow of the Proprietary Government. Thither Nicholas Trott, now deprived of his various offices, also determined to go to renew his intrigues. Before embarking, Trott wrote to Governor Johnson, informing him of his purpose and proposing that, if he would contribute to his expenses, he would give the Proprietors such a favorable account of his conduct and services as would insure to him the continuance of his office. But the Governor, knowing well Trott's character, and convinced that both the revolt of the people and the subversion of the government were in a great measure to be ascribed to his pernicious policy and secret correspondence with the Secretary of the Proprietors, disdainfully rejected his interest and friendship. To this disrespect of the judge Governor Johnson afterwards attributed many of the injurious suspicions the Proprietors entertained of his honor and fidelity. They made no answer to his letters or even informed him whether his conduct during the popular commotions had met with their approbation or disapprobation. Some of them even alleged that he was privy to the designs of the malcontents and gave them countenance.<sup>1</sup>

<sup>1</sup> Hewatt's *Hist. of So. Ca.*, vol. I, 288.

It seems to have been the fortune of the Carolina embassies to arrive in England in times of unusual excitement. Boone, fifteen years before, had reached London in the midst of the struggle over the "Occasional Conformity" bill, and could secure little attention to the affairs of Carolina while the interests of the Proprietors and of the government were absorbed in the election which followed. It now happened that Barnwell and Trott arrived just as the great South Sea bubble craze had begun. In both instances the affairs of Carolina were involved in the excitement.

King George, at the time, was in Hanover engrossed in negotiations in regard to continental affairs, and the administration of his British dominions was left in the hands of the Lords Justices.<sup>1</sup>

While Great Britain was leaving the Carolinians to defend themselves, and the province, the extreme southern outpost of her American dominions, as best they might from the hostile inroads of the Spaniards and the cruel massacre of the Indians, and permitting the pirates to prey upon the legitimate and growing commerce of her own colony, and actually to blockade the harbor of Charles Town, curiously enough the mere shadow of a trade allowed by the court of Madrid to the Spanish coasts in America was enough to arouse the cupidity of the whole English nation. The King of Spain had granted permission that a single British ship under 500 tons should make one annual voyage to certain British factories which he allowed to be settled there. Upon this small and precarious foundation was erected the famous South Sea scheme. The rice of Carolina, already esteemed the best in the world<sup>2</sup> and which had now begun to afford

<sup>1</sup> Smollett's *Hist. of England*, vol. II, 385.

<sup>2</sup> *Colonial Records of No. Ca.*, vol. II, 124.

a substantial article of steady commerce, was not thought of when, in 1711, a monopoly of the trade to the Spanish coasts in America was sanctioned by Royal charter and by act of Parliament as a means of improving the public credit and providing for the payment of the government's floating debts. English merchants were not slow in swallowing the gilded bait. The fancied Eldorado dazzled even their discerning eyes. The exploits of Drake were quoted, and the dreams of Raleigh renewed. The spirit spread throughout the whole nation, and many who scarcely knew whereabouts America lay felt, nevertheless, quite certain of its being strewn with gold and gems.<sup>1</sup> From this beginning the stock of the South Sea Company had, without any real intrinsic value, become a part of the financial system of the government, and had advanced to a very great figure. The policy of gradually paying off the national debt by incorporating it with the stock of flourishing companies was in high favor, and in 1717 an act was passed permitting the Proprietors of certain short annuities to subscribe the residue of the terms in the South Sea stock. In 1719 the project was conceived of enormously enlarging its scope. The Directors proposed to provide a sinking fund for paying off the national debt. This was accepted by the government, and a bill was passed in 1720 for carrying out this wild scheme. The famous Mississippi scheme of Law, the prototype of this, based, however, upon a somewhat stronger foundation, that of the exclusive trade to Louisiana which France could control, had, in the preceding year, produced a wild enthusiasm of speculation which had reached and spread through England. Upon an absurd report that Gibraltar and Port Mahon would be exchanged for

<sup>1</sup> *Hist. of England* (Mahon), vol. II, 4; *England in the Eighteenth Century* (Lecky), vol. I, 216, 348.



some place in Peru by which the English trade to the South Sea would be protected and enlarged, the stock rose to 1000 for 100. Exchange Alley was filled with a strange concourse of statesmen and clergymen, churchmen and dissenters, Whigs and Tories, lawyers, tradesmen, and even multitudes of women. All other professions and employments were utterly neglected, and the people's attention wholly engrossed by this and other chimerical schemes which were known by the denomination of "bubbles." New companies started up every day. Some of the companies hawked about were for the most extravagant objects. "Wrecks to be fished for on the Irish Coast," "Insurance for Horses and Other Cattle" (£2,000,000), "Insurance for Losses by Servants," "To make Salt Water Fresh," "For building Hospitals for Bastard Children," "For building Ships against Pirates," "For extracting Silver from Lead," "For the Transmuting of Quicksilver into a Malleable and Fine Metal," "For making Iron with Pit Coal," "For importing a Large Number of Jackasses from Spain," "For a Wheel for a Perpetual Motion," "*For an Undertaking which shall in Due Time be revealed.*"<sup>1</sup> One proposed company, which immediately affects this history, is not mentioned in the books from which the above instances are taken, and that was a company to purchase Carolina.

On the 4th of June, 1720, Maurice Ashley wrote a letter to a lady, whose name is not given, but which from intrinsic evidence, as well as from the fact that it was found among the Shaftesbury papers, was doubtless addressed to Lady Shaftesbury, the widow of the third Earl, invoking her intercession with Lord Stan-

<sup>1</sup> *Hist. of England* (Mahon), vol. II, 16, 17; *England in the Eighteenth Century* (Lecky), vol. I, 349, 350; Smollett's *Hist. of England*, vol. II, 400.

hope and others to forbear the opposition of the Royal Government to a plan for the sale of Carolina by the Proprietors to a company to be formed. The letter is illustrative of the times.<sup>1</sup> It is dated London, June 4, 1720 : —

“The day your Ladyship went to Beachworth,” wrote Ashley, “I was at Kensington to wait upon you; intending at the same time to inform you that we have had a Proposall made to us with respect to Carolina of so much advantage to the Proprietors that my single share may amount to Thirty Thousand Pound. The Terms of Agreement your Ladys’p will find indorsed. They are drawn into Form and already signed by Lady Granville for her son by Lord Carteret; by Mr Bertie Guardian to the Duke of Beaufort, by Mr Danton<sup>2</sup> and myself. I expect opposition from some of the Ministry. And since it has been rumour’d abroad that the Proprietors were upon some project of this sort I have had a message from Secretary Craggs to know upon what terms we would part with our interest in the Province.<sup>3</sup> Before this was thus rumoured abroad they took no notice of us imagining to distress and make us part with it for little or Nothing to them. Then would all the advantage be their own either by disposing of the Province by Subscription or by giving it up to the South Sea for ten times as much as they would allow the Proprietors whose Familys raised this Province to England. There’s no doubt of our succeeding in case the Court favours us or but lets us alone. I have no reason to question your Ladys’p’s interesting yourself in this matter if it were only a concern of mine; but I think it must needs be of more weight with those you apply to in case your Lady’s’p can speak of it as a concern of your son and his family, and to enable your Lady’s’p to treat it as such I do assure you I will give any Security that it shall be so if we can obtain what may be worth securing. I begg your Ladys’p therefore that since we have a prospect of obtaining something soe considerable you

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 384.

<sup>2</sup> Danson.

<sup>3</sup> Upon the collapse of the South Sea bubble, it was ascertained that Secretary Craggs had been one of those to whom fictitious stock had been issued to facilitate the passing of the bill. He died upon the day of the exposure. Smollett’s *Hist. of England*, vol. II, 407; Mahon’s *Hist. of England*, vol. II, 29, 30.

would be pleased to interceed with L<sup>d</sup> Stanhope and others for their favour upon this occasion to my Nevew and his Family.<sup>1</sup> And I propose to your Lady's<sup>p</sup> whether it would not be proper to acquaint Judge Eyre with the thing and desire his assistance in it. Your L<sup>d</sup>'s<sup>p</sup> may observe the advantage likely to be made by the Gentle<sup>n</sup> concerned in the Bahama Islands; and who have only a Lease from us [who?] are the Prop<sup>rs</sup>. The Carolinas are a foundation for a much greater thing, and are of ten times the value: And no man has a just title to anything if the Proprietors have not a Title to Carolina. We make no secret of our being in Treaty for Carolina, but we mention no particulars," etc.

What particular influence Lady Shaftesbury possessed is not known, but it was evidently considered important, as Mr. Ashley, her brother-in-law, applies to her in this letter not only to influence the ministers of the government in regard to Carolina, but to secure for Danson, in Ashley's name, a thousand pounds in the next subscription into the South Sea.

The paper enclosed in this letter shows that the proposals were for the sale of the province in consideration of £250,000; of which, however, £20,000 were to abate in case a charter could not be procured. The Proprietors reserved the right to subscribe into the joint-stock company one-fourth part of the whole, and they were to be allowed eight of the managers.

News of these negotiations had already reached Carolina. Letters came that the Lords Proprietors had sold their charter to three Quakers, who proposed to divide the country into shares which were to be stock-jobbed

<sup>1</sup> Though by a most curious coincidence Lord Stanhope died upon the same day as his co-secretary Craggs, and died from overexcitement in debate in the House of Lords upon these troubles, his character was so high, his disinterestedness in money matters so well known, that in the South Sea transactions, and even during the highest popular fury, he stood clear—not merely of any charge, but even of any suspicion of the public. Mahon's *Hist. of England*, vol. II, 28.



in Exchange Alley. This report greatly increased the indignation of the people of the colony. They were shocked at the idea of their being bought and sold as part of the South Sea stock. Their anger could not be composed. It had been the custom to urge, in extenuation of the rights and privileges of the Proprietors, that, though they were the fellow-subjects of the colonists, "some of them were men of best quality in England and on that score ought to have a Deference shown between them." But that argument was now no longer available when their Lordships might be Quakers and "perhaps the meanest of the people."<sup>1</sup> Fortunately for the people of Carolina, the "bubble" burst just at this time and the proposed sale fell through, so that Lady Shaftesbury had no opportunity of exerting the influence her brother-in-law seemed to suppose her to possess.

Messrs. Boone and Barnwell, the agents of the new government of South Carolina, procured a hearing before the Lords Justices Regents in Council, in the absence of his Majesty the King, upon which their Excellencies very readily came to the conclusion that the Lords Proprietors had forfeited their charter, and thereupon they ordered the Attorney General to take out a *scire facias* against it. None was, however, issued, nor any further legal proceedings taken.<sup>2</sup> There really was no ground for such a proceeding. The Proprietors had done nothing to forfeit their charter, unless, indeed, any legislation by them without "the advice assent and approbation of the Freemen" of the colony was such a forfeiture. They had neglected and misgoverned the province; but their charter had most recklessly given them power to govern as they saw fit, provided only that their laws were not in conflict with

<sup>1</sup> *Proceedings of the People*; Carroll's *Coll.*, vol. II, 190.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 172.

those of Great Britain, and were enacted with the consent of the freemen of the province. This latter safeguard had been utterly disregarded by the Proprietors from the very inception of the colony. The Fundamental Constitutions had been imposed as far as they could be, and altered again and again without the assent of the Commons. True, the people had refused to recognize that body of laws, but the Proprietors had done all in their power to enforce them. The two grounds upon which they were now said to have violated the charter were : (1) the repeal of certain acts which had been assented to by their deputies ; and (2) the change in the number of the Council. They had frequently before this exercised the right of altering the laws of the colony without the action of the Commons, not only in regard to the Fundamental Constitutions, but in that most important matter upon which all laws must depend, — the election of the Commons. Of their mere will, they had, from time to time, dictated how many representatives should constitute the Commons House, and where the election should be held. They were now insisting that all the elections should be held at Charles Town, and had set aside the acts passed by the Assembly elected under the act of 1716, and dissolved that body because elected at polls in the parishes instead of in the town. In 1683 they had dissolved the Assembly, because elected at Charles Town and not at Charles Town and London as they had ordered. If, then, the repeal of the acts of 1716–17 was a violation of the charter, such violation had been continuously repeated in the fifty years of the province. The other ground is still more questionable. The only authority for the number of the Council was the Fundamental Constitutions, and the instructions first given to Governor Sayle and continued to the other Governors in succession. There was nothing in the charter which

regulated the number, unless, indeed again, it was that this matter should also have been submitted to the approval and consent of the Commons.

But the Royal Government was now watching these Proprietary Governments with great jealousy, and seeking opportunities of resuming control and setting them aside. The Lords Justices, in the absence of the King, who had himself lent a favorable ear to the petitions of the people of Carolina presented by Mr. Boone, hastened, therefore, to avail themselves of this uprising of the people, which the Proprietors had been unable to suppress, as requiring the intervention of Royal authority. On September 13, 1720, an Order of Council was made referring it to the Attorney General to prepare a commission and instructions for the appointment of a Royal Governor for South Carolina ; and on the 20th, another order was made appointing General Sir Francis Nicholson as such Governor, and giving him his instructions for the government of the colony. This government was, however, merely provisional, and, as such, it was to last for ten years ; for there was no little difficulty in settling the rights of the Proprietors to the soil, though the government of the province had been taken from them, and this ultimately had to be done by purchase under an act of Parliament. The history of the administration of the Provisional Government pertains to that of the Royal Government and will be considered hereafter.

The old disputes as to the title to the original shares of the Earl of Clarendon and of Sir William Berkeley were difficulties in the way of a settlement of the property rights of the Proprietors. Mr. Chief Justice Trott had gone to England, and it is at least a coincidence, if nothing more, that, upon his arrival there, the famous suit was vigorously pressed by his cousin, Nicholas Trott of Lon-



don, and his wife, together with her sister, Elizabeth Moore, the other daughter of Thomas Amy, against Mary Danson, the daughter of John Archdale, and her husband, John Danson. In this suit, the plaintiffs not only set up their title to the share of Sir William Berkeley, but also asked for an accounting of the sums due Thomas Amy for advances made and expenses incurred by him in promoting the settlement of the province.

The Board of Proprietors, it will be remembered, had repudiated their deeds to Amy, and had refused to recognize the titles of Trott and his wife to either share they claimed under that person. The one-eighth share of Sir William Berkeley, as it has appeared, had been purchased in 1682 from Ludwell and his wife, who had been the widow of Sir William, by four of the Proprietors; to wit, the then Duke of Albemarle, the then Lord Carteret, the Earl of Craven, and Sir Peter Colleton, who in the purchase had made use of Thomas Amy as their trustee, to whom the conveyance was made. Disregarding the fact that the legal title to this share was, therefore, in Amy, as trustee, the four Proprietors had, in 1705, sold the share to John Archdale, who, in 1708, had conveyed it to John Danson, his son-in-law. The legal title to the share doubtless remained outstanding in the heirs at law of Thomas Amy. The Board of Proprietors had, also, undertaken to escheat the one-eighth share originally of the Earl of Clarendon, as Sothell, who had purchased it, had died in North Carolina without, as it was supposed, leaving an heir at law or a will, and had, in 1697, granted it to Amy, whom they appointed to be one of the eight hereditary Lords Proprietors. In 1700 Amy had assigned this share as a marriage portion with his daughter to Nicholas Trott of London. Subsequently it appeared, however, that James Bertie had found heirs

at law of Sothell and had purchased their title. Upon this, the Board of Proprietors failed to support their escheat and declined to recognize Amy or Trott under their grant.

Trott's claim to the Berkeley share, it must be borne in mind, was that while it was true that Amy, from whom his wife had inherited in part, as an heir at law, had held the share only in trust for those who had purchased it, he, Amy, had not only rendered valuable services to the Proprietors in procuring immigrants to the colony, but had actually expended considerable sums of money in their behalf. The money thus advanced, with allowance for his time and service, the court had found amounted, with interest, to the sum of £2538 11s., which, under the well-established doctrine in equity, should be reimbursed to Amy's heirs at law before they should be called upon to part with the legal title. To this it was answered that the purchase of the share from Ludwell had been a personal matter between the four Proprietors and himself as individuals, and not as the board, and in which neither the Earl of Shaftesbury nor his successor in that interest, Maurice Ashley, were in any way interested; nor were the heirs of Sothell or their assignee, James Bertie. The question between Trott and Bertie was one of fact: Were the persons from whom Bertie had purchased heirs at law of Sothell? If so, the escheat of the Proprietors was clearly void, and Amy had taken nothing under their grant which he could convey to Trott. The case was a hard one for Amy and those standing in his interests; for he had, doubtless, rendered the services and advanced the money. This was the view taken by Lord Chancellor Macclesfield, who held that Amy had acted for the benefit of all the Proprietors, and that each share should bear its proportion of the advances made by Amy;

and, on the 15th of January, 1723, he ordered that the sum above mentioned should be paid over to Trott and his wife, and thereupon they should convey the shares to Danson. Danson died during the litigation, and his widow, refusing to pay the amount decreed, was committed to prison until she did so. The two shares were, on the 29th of October, 1724, ordered to be sold. This was done on the 16th of February, 1725, whereupon they were purchased by one Hugh Watson for £900 for both proprietorships. Watson bought, however, only as trustee, and afterwards conveyed one of the proprietorships to Henry Bertie, and the other to James Bertie. Mary Danson, the widow, after having been confined in prison nearly two years because of her refusal to pay as ordered, appealed from the decree of Lord Chancellor Macclesfield to the House of Lords, before which tribunal she was represented by the celebrated lawyers Talbot and Finch. The appeal delayed the settlement of this province four years, when, at last, the plucky widow won her cause, and the decree of Macclesfield was reversed. Nicholas Trott, of London, was now also dead, the long litigation was at last compromised, and the House of Lords, by a decree, carried out a settlement which had been agreed upon. By this decree, upon Mary Danson's repaying to Henry Bertie the money he had paid for the Berkeley share, he, Bertie, together with Elizabeth Moor, the surviving heir at law of Amy, were required to execute a conveyance of the share to Mary Danson. The money thus paid by Mary Danson, it was further decreed, should be refunded her by Ann Trott out of the assets of Nicholas Trott's estate. What consideration Amy's heirs derived from the settlement does not appear; they seem to have lost not only all benefit of the services he rendered the Proprietors at the Carolina Coffee House by drumming for



colonists, but the money he expended there as well. Mary Danson must finally have reconveyed the share to Henry Bertie, as in the act of surrender he is treated as the owner, and paid a share of the purchase money. The appeal as to James Bertie was dismissed, and his title to the Clarendon-Sothell share thus confirmed.

Nothing definitely could be done in regard to the civil and political condition of the province until the title to these shares had been finally adjudicated. In the meanwhile, the Proprietors, having issued *caveats* against the appointment of a Governor or grants of any offices without notice to their Lordships, matters were so arranged in 1721 by his Majesty's act of grace upon his return, that the Proprietors acquiesced in the provisional Governor's appointment until the complaints of the colonists were inquired into and settled.<sup>1</sup> The Proprietors continued, however, from time to time, to assert their rights under the charter. In 1725 they appointed Robert Wright Chief Justice, Thomas Kimberley Attorney General, James Stanway Naval officer, Thomas Lowndes Provost Marshal, and Edward Bertie Secretary;<sup>2</sup> at the same time they asked the Royal Government to appoint Colonel Samuel Hersey Governor, offering to make him a Landgrave, annexing thereto four baronies of 12,000 acres each.<sup>3</sup> The next year Thomas Lowndes purchased of the heirs of John Price, deceased, his landgraveship with five baronies of 12,000 acres of land each, but surrendered the patent and accepted in lieu four single baronies.<sup>4</sup>

The Proprietors made another effort to recover their government. On the 26th of June, 1726, they petitioned the King that the provisional Governor might be commanded to assist them in obtaining their just dues and

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 172.

<sup>2</sup> *Ibid.*, 198, 199.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, 174.

rights; that he be directed to continue the officers appointed by them in their employment; that they might have the power to appoint other officers; that the provisional Governor might be instructed to eject those from the Proprietors' lands who, after deposing their Governor, had committed various excesses thereon, cutting timber, etc. They concluded by praying that the petitioners might be restored to their ancient inheritance.<sup>1</sup> Two years after this, however, March 5, 1727-28, they had given up hope of restoration and petitioned the King praying him to accept an absolute and entire surrender of their interest in the province in consideration of the sum of £25,000, just one-tenth of what they had hoped to have received from the South Sea company. Later, they again memorialize the King, stating that about twelve months before they had proposed to surrender to his Majesty all interest in the province for the sum of £25,000; that they had laid their letter before the Attorney and Solicitor Generals, and that a conveyance was then proposed with a covenant that they should consent to an act of Parliament. They express their disappointment and surprise to learn that the surrender could not be made without an act first obtained for the purpose.<sup>2</sup> The decree of the House of Lords in the case of *Danson v. Trott* had now, however, removed all difficulty on the score of conflicting titles, and an act was passed to carry out the agreement.

To this agreement Lord Carteret was not a party. Though he had paid little attention to his duties as Palatine or even as a Proprietor, he did not desire to part with his right or interest in the province, and declined to set any determinate value upon an estate likely to become of great value to his family. Lord Carteret's refusal to

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 173.

<sup>2</sup> *Ibid.*, 175.

join in the surrender did not, however, prevent its consummation by the remaining Proprietors. The act of Parliament provided that the seven-eighths shares of the surrendering Proprietors — to wit, of Henry Duke of Beaufort, William Lord Craven, James Bertie, Henry Bertie, Sir John Colleton, Archibald Hutcheson, who held in trust for John Cotton the share of Maurice Ashley, deceased, and of Joseph Blake, now come of age, of which Samuel Wragg was agent — should be vested and settled upon Edward Bertie of Gray's Inn, Samuel Hersey of the parish of St. Martin's-in-the-Field, Henry Smith of Caversham, and Alexius Clayton of the Middle Temple, in trust; that upon the payment to these trustees of the sum of £17,500, they should surrender and convey to the King these shares; and that thereupon the same become vested in his Majesty. The act also provided for the purchase on the part of the Crown of seven-eighths of the quit-rents due from the colonists to the Proprietors for the additional sum of £5000.

While the Royal Government had availed itself of the revolution of the people of South Carolina in 1719, and had accepted their overthrow of the Proprietors' rule, the title to the lands in the province had remained for ten years in their Lordships — the eight Proprietors. Upon this surrender of the charter by seven of them, under the act of Parliament authorizing and accepting it, the title to the lands became vested in the King as to seven-eighths; but as Lord Carteret refused to join in the surrender, the remaining eighth share or interest still continued in him, the King and his Lordship thus becoming tenants in common of the lands of the provinces, both of North as well as of South Carolina. This anomalous condition of things continued until 1744, and was only put to an end by a change scarcely less anoma-



lous. On the 17th of September of that year, an indenture was entered into between his Majesty the King of the one part, and the Right Hon. John Lord Carteret of the other, whereby his Lordship, in consideration of the allotment to him of all that part of North Carolina lying next to the province of Virginia and extending to a line drawn from a point six and one-half miles southward of Chick-macomack Inlet westward, which tract embraced more than half of the province of North Carolina, released his interest in all the remainder of the territory embraced in the charter of Charles II. It was expressly stipulated, however, in this indenture that his Lordship abandoned all right or title to political power under that charter.<sup>1</sup>

The full legal title to all of South Carolina thus did not entirely revert and become vested in the King of England during the life of his Majesty, King George the First. This was not accomplished until in the reign of his successor, King George the Second.

<sup>1</sup> *Colonial Records of No. Ca.*, vol. IV, 655, 663.

## CHAPTER XXXI

FROM the accession of James the Second the Royal Government had sought occasion or opportunity to set aside the viceregal powers of the Proprietors and to resume the immediate control of public affairs, not only in Carolina, but in all of the Proprietary colonies. Especially did it seek to do so in this province. The agitation of the question had been pressed by Edward Randolph, Collector of the Royal customs, and the Board of Trade and Plantations had been constantly on the alert to find some ground of forfeiture of the Proprietors' charter. They had seized upon the occasion of the Church act of 1704 to advise its suppression, and the Whig House of Lords had declared it forfeited because of Lord Granville's policy in endeavoring to secure Tory influence in the colony by means of the sacramental test. Then upon the breaking out of the Indian wars they had encouraged Boone and Berresford in their appeals to be taken under the Royal protection. The law officers of the Crown had twice been called upon to institute proceedings to have the charter declared forfeited. But that instrument had recklessly given the most extraordinary powers, and it was found a very difficult task to point out wherein its authority had been exceeded, except in the one instance in which the Royal Government seemed as little inclined to act as the Proprietors themselves; and that was in the violation of the provision of the charter by which laws could only be enacted "by and with the advice, assent, and

approbation of the freemen" of the province. When his Majesty received the address of the inhabitants praying to be taken under his immediate government without objection or rebuke, the Proprietors must have realized that their power and influence no longer existed. His Majesty's government was, nevertheless, setting a most dangerous precedent when, instead of taking the initiative and frankly and boldly resuming the government, which it may well be doubted if ever the King had the right to delegate, it weakly encouraged the people to rise against the Proprietors, and accepted their overthrow not as of Royal authority, but as the result of revolution.

The Proprietary Government covered the period of the first fifty years of the province of South Carolina. During this time the colony had been planted and gradually formed and developed into a community organized socially and politically. The Royal Government, upon assuming its immediate administration, found it a state with a well-digested body of laws; with the institution of African slavery under a formulated code, upon which was based the beginning at least of a social order of its own; with a staple of food and commerce, the production of which in America was limited almost entirely to its own territory, and along with the cultivation of which negro slaves were improving and multiplying, and their masters laying the foundation of fortunes. It found the colonists, in spite of the calamities of war, pestilence, and flood, and notwithstanding the representations of their agents in London, a bold, self-reliant, and prospering people.

The several causes to which we alluded in the introductory chapter to this work—to wit, (1) the position of the colony as an outpost; (2) the inevitable contest between the rights of the colonists under the charter, on



the one hand, and the pretensions of the Proprietors under the Fundamental Constitutions, on the other; (3) the introduction of African slavery, and the suitability of the climate to the negro race, together with the finding of an article of food which could be successfully cultivated by negro labor for foreign as well as home consumption; and (4) the consequent formation of a social order based upon the institution of African slavery following the system brought from Barbadoes — had all tended to the formation of the character and controlled the development of the people of Carolina.

The planting of the colony on the Ashley, *i.e.* the St. George's Bay of the Spaniards, had been a direct challenge to war; for, while acknowledging in a general way the right of England to her possessions in America, Spain had never agreed to a settlement of the line between her territory of Florida and that of Carolina claimed by Great Britain; and when King Charles the Second by his second charter extended his territorial claim from "the River St. Matthias which bordereth upon the coast of Florida and within one and thirty degrees of northern latitude" — the limit of his first grant — to a point "as far as the degrees of twenty-nine inclusive northern latitude," thus including in his grant the Spanish post of St. Augustine itself, he entailed a condition of war upon any colony which might be established under its claims. The Spaniards at St. Augustine at once accepted the challenge and made war upon the colony on the Ashley from its very inception. France, also, advancing her claims to the territory eastward of the Mississippi and northward of Mobile, was disputing the westward limits of Carolina. The Indian tribes, with whom the Spaniards and French alike coalesced with greater facility than did the English colonists, presented

the ready means of continual, though unavowed, hostility, and circumscribed the advance of the colony not only by open warfare, but by the dread of the lurking savage.

The first immigrants had not yet settled on the Ashley when the Spaniards appeared, giving them notice that the colony must fight for its existence. In 1686 they destroyed the settlement under Lord Cardross, and ravaged the country nearly to the fortifications of the town. Then had followed, twenty years later, the combined invasion of the French and Spaniards, which had been so successfully repulsed by Sir Nathaniel Johnson. Then the Indians, instigated by the French and Spaniards, had risen upon the colonists; but these risings the colonists had put down, on the one hand driving the Apalachis to the walls of St. Augustine, and on the other, going to the assistance of their neighbors in North Carolina, had expelled the Tuscaroras from that province. Then in 1715 had occurred the great Indian War which for a time threatened the utter ruin and devastation of the colony. But this insurrection, with but little and feeble assistance from North Carolina and Virginia, they had ultimately suppressed. The colony had thus been in a constant state of warfare, and had found able military leaders in Sir Nathaniel Johnson, Colonel Daniel, Colonel Rhett, Colonel Barnwell, the Moores,—James and his two sons, James and Maurice,—and Colonel Chicken. The Indian troubles had immediately been followed by the blockade of the harbor of Charles Town by the pirates, and the gallant and successful expeditions against them by Rhett and Governor Robert Johnson. These wars and conflicts had given the strong military turn to the colonists of which we have spoken, and had developed in them a resolute and independent spirit. This military turn, the institution of slavery had tended also

to develop ; and military organization had become an institution not only of defence against foreign invaders and hostile Indians, but also of domestic police rendered necessary by the constant importation of negroes as savage, if less warlike than the Indians themselves.

The attempt to impose Locke's Fundamental Constitutions upon the colony without "the advice assent and approbation of the freemen" of the province had raised the question of the constitutional powers of the Proprietors. From the very outset, when their Lordships had attempted to evade the provisions of their charter, requiring the concurrence of the freemen in the enactment of laws, by granting lands only to those who would be sworn to submission to them and to their scheme of government, and from the time when Will Owen "censured the legality" of the first election held in the province, the people of Carolina had been learning the great political lesson of government by a written constitution. It was this principle—the essential difference between the constitution of tradition and precedent of England and the *lex scripta* of America—that was forced upon their attention by the effort of the Proprietors to impose that preposterous system of laws upon the colony. Thus it came to pass that the first political question asked and debated in Carolina was : "What is written in the law ? how readest thou ?" And that question has continued to be asked and repeated in all the history of the province and State. The revolution of 1719 was upon the terms of the charter ; that of 1776 in South Carolina was to a considerable extent upon the "Additional Instruction" to the Governors of South Carolina, directing the control of the House of Commons in the disposition of its public funds, the Royal instructions to the Governors having superseded the charter as the constitution of the province.



The assertion of the right of nullification in 1832, and of secession in 1860, were severally upon the construction of the Constitution of the United States. In the discussion of the right to impose the Fundamental Constitutions, and again in resisting the Church act of 1704, the people were learning to contend for a strict construction of the Royal charter, the constitution of the province, as alike binding upon Proprietors and colonists.<sup>1</sup>

As we have before observed, though the extraordinary body of laws proposed by Shaftesbury and Locke were never constitutionally adopted, and so were never legally of force, yet the appointment of Landgraves and Caciques, empty, paltry titles though they were, sought alike by Puritans and churchmen, and the laying out of seigniories, baronies, and manors, doubtless gave an aristocratic temper to the government of the colony, which tendency was greatly increased by the prosperous implanting of the institution of African slavery, thus at once affording a peasant class in the place of the "leet men" of the Fundamental Constitutions, who never came. The climate agreed with the negroes, who could live in the swamps, which were fatal to the white man, and yet was not as enervating as that of the negroes' native land, nor as that of the tropical islands from which many of them were brought. But the institution, possibly, would not have taken such vigorous root in the soil had there not been found an article of commerce which could be successfully cultivated by its labor.

Before the cultivation of rice in Carolina, Portugal, which was a great consumer of that article of food, had been supplied from Italy. It was the opportunity of this market that had greatly induced the people of Carolina to devote their attention to the production of this article

<sup>1</sup> See *The American Commonwealth* (Bryce), vol. I, 413.

of commerce. Their labor and industry were by degrees rewarded by an abundant increase of this useful and valuable product, and they had nearly monopolized the Portuguese market when, by an act of 3d and 4th Anne, rice was added to the "enumerated commodities," in the navigation acts, the exportation of which was restricted to Great Britain. This act required the rice of Carolina intended for Portugal and Spain to be shipped first to England and reexported to those countries. The cost of this additional freight, with the other charges of reexportation, was estimated at one-third of its value. This cut off Carolina as a competitor with Italy and the East Indies, in the markets of southern Europe, and lost them that great trade. Thus from Christmas, 1712, to Christmas, 1717, there were annually imported into England from Carolina and other plantations 28,073 hundredweight of rice, and from East India, Turkey, and Italy only about 250 hundredweight. Of the amount imported from Carolina but 2478 hundredweight were reexported to Portugal, Spain, and other ports south of Cape Finisterre; while 20,458 hundredweight were reexported to Holland, Germany, and other countries north of that cape; leaving 5387 hundredweight for consumption in England.<sup>1</sup> It was in this matter that the navigation acts of Great Britain, the ultimate cause of the American Revolution of 1776, pressed most hardly upon Carolina. But though deprived of what should have been the chief market of the province, yet the trade even to the northern countries of Europe, encumbered as it was with the restriction of reexportation charges, was becoming of great value, and drawing a considerable commerce to Charles Town. This it was that attracted the attention of the pirates to the harbor of the town which could be so easily watched from Cape Fear.

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 424.

The successful production of rice, and its value as an article of commerce, with the manufacture of pitch and tar in which negro labor could also be profitably employed, tended greatly to the enlargement of the institution of African slavery and to strengthen its hold upon the people. Indigo and cotton were yet to be found equally suited to cultivation by this labor; but during the time of the Proprietary Government, and for a number of years after, it was upon rice chiefly that negro labor could be employed with great remuneration. Carolina rice had already become esteemed as the best in the world,<sup>1</sup> a reputation it sustains to this day.<sup>2</sup>

Disputed titles, repeated hurricanes, exhaustion of the limited areas of lands in Barbadoes, and its overcrowded population had driven many of the people of that island to Carolina. These people came with colonial experience, and brought with them their negro slaves already broken in to labor, and only wanting a soil and commodity upon which to bestow it. They brought also with their slaves a system of government and control, and customs and manners which the experience of half a century had developed. A social order in a great measure already formed was thus transferred from Barbadoes to Carolina. Unlike the first settlements at Jamestown and Plymouth Rock, each of which, as we have suggested, had to be built up from its very foundation, according to its individual circumstances and environments, the emigrants from Barbadoes came with a colonial social system of their own, which, beginning a little later than that of Virginia, was nearly as old and as fully developed as that of Massachusetts, ready for adaptation by the new colonists from England.

Communication with England at first was by way of

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 424.

<sup>2</sup> *South Carolina's Resources, etc.*, 12.



Barbadoes, and the first trade of the colony was with that island. This intercourse continued, and strongly influenced the Carolina colony. "The Goose Creek men," against whom Ludwell was warned, were the Barbadians Moore, Gibbes, Middleton, and others who had settled there. It was to Barbadoes that the very able, if unprincipled, Governor Sothell turned for a code of laws for the government of slaves, and the statute book of that island furnished the precedent for many others of this province. It was from this source, as it has appeared, that the peculiar parish system of South Carolina was derived. It was upon this basis, with the additional aristocratic tendency, encouraged by the partial establishment of the Fundamental Constitutions, that the social order of South Carolina was formed.

Some remarkable men had appeared in the public affairs of the colony during the Proprietary rule. Sayle, West, Smith, Morton, and Blake were men of sober and virtuous lives, and of fair capacity in public matters. Their administrations, while subject to the inevitable inconveniences and struggles of a new community, had been, upon the whole, wise if not brilliant. Sothell, whatever may have been his private character, however disputed his right to the government, had shown great political ability in his brief administration, particularly in his treatment of the Huguenot settlers. Sir Nathaniel Johnson, though a bigoted Tory, was a man of the highest character, and a soldier of reputation. His defence of the province, upon the occasion of the French and Spanish invasion, in 1706, forms one of the brilliant pages in South Carolina's history. His son Robert, afterwards to be known under the Royal Government as the "Good Governor Robert Johnson," had come only at the last struggle of the Proprietary Government, and the colony had no op-

portunity of appreciating the qualities for which he was afterwards beloved, excepting that of his heroic conduct in regard to the pirates. The Moores, father and two sons, were all men of great force and ambition. Daniel and Gibbes were men of ability, and Craven was the wisest and best Governor of the colony.

But Trott and Rhett stand out upon the scene conspicuously, as the two who most impressed themselves upon the affairs of the time. Rhett was of violent and domineering disposition, but his repeated and signal services to the colony demanded its gratitude and respect, and the people forgave his overbearing manner when recollecting his gallantry in their defence against invaders and pirates, and recognized his earnest zeal for the public welfare, despite the imperiousness of his conduct.<sup>1</sup> Trott was an extraordinary man. His learning for the times was profound; his ability great; his industry indefatigable; but his character corrupt, though a devoted churchman, and as learned in theology as in law. No one can read his charge to the grand jury upon witchcraft and doubt his sincere conviction upon the subject; nor is it easy to believe that one so familiar with the Holy Scriptures as his charges, especially that in regard to witchcraft and that to poor Stede Bonnet, proved him to be could be altogether regardless of their teaching; and yet he is more remembered to-day for his corruption than for the really great services he rendered, not only the province of his day, but the State which was to succeed it.

Trott may truly be said to have been the father of law and of the courts in South Carolina. He was not only the first judge, but the first lawyer of whose professional

<sup>1</sup> Colonel Rhett died suddenly, in 1721, from apoplexy, as he was preparing for his departure for Barbadoes, of which, it is said, he had been appointed Governor. *Johnson's Traditions*, 232.

career we have any knowledge. There is, indeed, no record of any lawyer in the colony before his arrival. The absurd provision of the Fundamental Constitutions, declaring it to be a base and vile thing to plead for money or reward, and prohibiting it, though never constitutionally of force, was not encouraging to the coming of any of the profession. It is quite certain that none but Trott came until the attempt to impose those provisions was abandoned.

Upon the first settlement of the province, as we have seen, rough justice had been administered by the Grand Council. In 1682 the Proprietors presented a system of judicature, to consist of a County Court, of a Chief Judge or Sheriff, and four justices, who were to have jurisdiction of all civil causes and of all causes criminal for offences whereof the penalty was less than death; of an Assize Court, consisting of an itinerant justice together with the members of this County Court, and of a Governor and Council, who were to exercise general appellate jurisdiction of all causes from the County Court and Assizes and general original jurisdiction in chancery.<sup>1</sup> We find frequent allusions to these courts, but no record of their proceedings. The Assize Court went upon no circuit; no general court was held outside of Charles Town. The first person who was Sheriff or Chief Judge, of whom we know, was Robert Gibbes. Barnard Schinkingh succeeded him, but when we do not know, except that he had been in office before 1691, when he was restored to it, having been removed by Sothell.<sup>2</sup> It was one of the grievances of which the Commons complained, in 1692, that the office of High Sheriff and Chief Judge of Pleas was lodged in the same person, and another, that inferior

<sup>1</sup> *Administration of Justice in So. Ca.* (Henry A. M. Smith); *Charleston Year Book*, 1885 (Courtenay), 317.

<sup>2</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 112.



courts undertook to pass upon the validity of laws. In 1698 the Proprietors had sent out Mr. Bohun, a Justice of the Peace in England, — a layman, — to be Chief Justice ; but he had died after but a year of troubled service, and had been succeeded by James Moore, whom Governor Blake had temporarily appointed, — an appointment he was authorized to make upon the death or absence of Chief Justice Bohun.<sup>1</sup> Moore was also a layman, and without either the literary ability or the limited legal experience of Bohun. In 1702 Trott, the first professional lawyer to sit as a judge, was commissioned as Chief Justice ;<sup>2</sup> but in 1709 he was made to give place to another layman, Robert Gibbes, who had before been Sheriff or Chief Judge, and of whom the Proprietors then wrote “a very ill character had been received” ; the same Robert Gibbes who afterwards secured the election as Governor upon Colonel Tynte’s death. Trott was again made Chief Justice in 1713, and continued such until the revolution of 1719. In 1694 an elaborate system of fees was established by an act entitled “*An act for ascertaining Publique Officers Fees*,” in which table fees are prescribed for “The Judges of Pleas” and for “The officers belonging to the said Court,” also for “the Attorneys Fees belonging to the Court of Pleas,” and for the Provost Marshal ;<sup>3</sup> which table was revised in 1698.<sup>4</sup> These acts imply that there was, at their respective dates, an organized Court of Pleas ; but beside an allusion by Archdale, writing several years after in his usual loose style, that during his administration, to wit, 1695, he had continued in office all judges and militia officers, we know nothing of the courts prior to the coming of Chief Justice Bohun and Attorney General Trott in 1698.

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. II, 207.

<sup>3</sup> *Statutes of So. Ca.*, vol. II, 86.

<sup>2</sup> *Ibid.*, Appendix, 451.

<sup>4</sup> *Ibid.*, 143.

From this time until the overthrow of the Proprietary Government, the system of judicature in the province was as follows : —

1. Justices of the Peace, for the arrest of offenders and the trial of small causes, civil and criminal, who were paid by fees.

2. A court of general jurisdiction, called the Court of Common Pleas, composed of a Chief Justice and four assistants, and one of general jurisdiction, called the Court of Sessions, composed of the same. The Chief Justice received a salary of £60.

3. The Governor and Council, who constituted an Appellate Court in civil and criminal cases, from the Chief Justice's Court, and who also had general original jurisdiction in chancery. The Governor was paid a salary of £200, and in addition was entitled to receive certain fees.

4. An appeal lay from the Governor and Council to the Lords Proprietors in England.

5. A Court of Admiralty, having general admiralty and maritime jurisdiction, and jurisdiction in case of maritime crimes by special commission. The judge and officers of this court derived their commissions from the King, and an appeal lay to the Privy Council or Lords of the Admiralty in England. The Judge of the Court of Admiralty was paid by fees for the items of his services.

6. The Governor of the province exercised the duties and powers of an Ordinary.<sup>1</sup>

Trott remained in England during the Provisional Government under Sir Francis Nicholson, while the Proprietors were negotiating the terms of the surrender of their charter, busying himself with that negotiation,

<sup>1</sup> *Administration of Justice in So. Ca.* (H. A. M. Smith) ; *Year Book City of Charleston*, 1885, 318 ; *A Letter from So. Ca.*, 1710 (second ed., 1732), 27.

and in his effort to have his codification of the laws of South Carolina printed, and also another work, — his *Explication of the Hebrew Text of the Old Testament*, — intriguing the meanwhile to be restored to his office of Chief Justice.<sup>1</sup> It was not until some years after (1736) that his codification was published; but the Royal Government found the laws of the province collected and arranged to its hand by this learned, if eccentric, and corrupt judge. Upon the final establishment of the Royal Government Trott returned to Charles Town, but lived in retirement in his house in Cumberland Street, devoting himself to his work on the *Explication*, and it was said had finished one large volume in folio ready for the press when he died January 27, 1740. He was buried in St. Philip's churchyard, as was also Colonel Rhett. He had been made a Doctor of Laws and was then spoken of as Dr. Trott.<sup>2</sup>

The peculiar parish system brought over from Barbadoes in 1716 remained, for the lower part of the State, until the overthrow of the government in the late war in 1865. This system, it must be observed, was purely an election system. The parish was made the election precinct and elections for members of the Assembly — the only election of civil officers until after the Revolution of 1776 — were held at the parish church, and conducted by the churchwardens. But save legitimate ecclesiastical duties, such as that of caring for the poor, the vestries had none.<sup>3</sup> To provide for the poor,

<sup>1</sup> *Coll. Hist. Soc. of So. Ca.*, vol. I, 243-245.

<sup>2</sup> *South Carolina Gazette*, February 2, 1740.

<sup>3</sup> Subsequently, during the Royal Government, municipal duties were performed by the vestry and wardens of St. Philip's Parish, Charlestown, and municipal boards elected at the church door on Easter Monday, together with the wardens and vestrymen. See *A Sketch of St. Philip's Church*, Charleston, South Carolina, by Edward McCrady; *Year Book City of Charleston* (Smyth), 1897.



however, these church officers had power to assess and levy a tax. The only other elections held in the province were those for rectors, vestrymen, and wardens of the churches, who were chosen, as we have seen, by the inhabitants of the several parishes that were of the Church of England. The vestries in South Carolina did not, therefore, take the place of the township officers of other provinces. There was no local government. The province was not supposed to be too large for the administration of a single government by Governor and General Assembly.

It is difficult correctly to estimate the exact moral and religious character of the people of the province as a whole at this time. It was a period in the history of the world when, perhaps, religion was more a matter of political and religious faith than of moral personal conduct. The community was still new ; a generation had scarcely yet been born and passed away upon its soil.<sup>1</sup> Adventurers from all parts of the civilized world were coming and going, and some remaining. It was this feature, doubtless, which had so impressed Commissary Gideon Johnson on his first arrival, but the people generally were by no means of the character he described. The simple piety of the French Huguenots cannot be doubted, nor

<sup>1</sup> In the old "Circular Church," that of the Independents or Congregationalists, — "White Meeting," — which was burned during the late war, there was a monumental tablet to Mr. Robert Tradd, which stated that he was the first male child born in Charles Town and that he died on the 30th of June, 1731, in the fifty-second year of his age. Ramsay's *Hist. of So. Ca.*, vol. I, 2 ; *Year Book City of Charleston* (Courtenay), 1882, 392. Tradd must therefore have been born in 1679.

The author of *The Olden Time of Carolina* states that George Smith, the second son of Landgrave Thomas Smith, was born in old Charles Town, west of the Ashley, in 1672. *Our Forefathers : Their Homes and their Churches* (1860), 49. But this is a mistake. The first Landgrave Smith did not arrive in the province probably before 1687.

can the earnest zeal of the Puritan class of which Land-graves Smith, Morton, and Blake were the leaders and representatives. To the tyrannical and venal Trott, it is not probable that the church, the temple of the Lord, was more sacred than the court, the temple of justice, which he at once adorned with his learning and polluted with his corruption. Rhett's violent temper and hectoring disposition was little controlled by Christian grace, but he was as devoted to the service of his church as heroic in the defence of his people, and spent freely of his time and means in her support. He was the willing almoner of the bounty of the Society for the Propagation of the Gospel, and upon the altar of St. Philip's Church there still stand the silver tankard, chalice, paten, and alms plate, with this engraved on them "*The gift of Col. Wm. Rhett to the Church of St. Philips Charles Town South Carolina.*" Sir Nathaniel Johnson was an earnest if over-zealous churchman, with the habits of a soldier, ready to support Granville in his high-handed measures, without pausing to consider the constitutionality of his methods.

We do not know, it is true, of the performance of a church service beyond the limits of Charles Town before 1700 ; nor is there record of any church out of the town before 1703, when the planters on Cooper River built, by private subscription and the liberal assistance of Sir Nathaniel Johnson, a small church on Pompion Hill in that neighborhood, though Original Jackson and Meliscent, his wife, had given a lot for such a purpose, as is supposed, as early as 1681. It was a false and empty pretence — that declared in the first charter that the grantees were influenced and excited in their application for it by "a laudable and pious zeal for the propagation of the Christian faith." No effort was made by the first Proprietors, in fulfilment of their power, "to build and found churches

chappels and oratories in convenient and fit places." Beside announcing the somewhat inconsistent provisions of the Fundamental Constitutions, by which, on the one hand, they laid down a great scheme of religious freedom, and on the other, set up, as they were bound to do under their charter, the Church of England as the established church of the province, the Proprietors did little or nothing to promote and advance Christianity in the colony. A stock corporation intent only upon immediate pecuniary profit, instead of exerting their great powers to convert the Indian savage, they gave "the privilege," to use their own language, of selling Indian captives as the cheapest means of "encouraging the soldiers of their infant colony." From the beginning, it is the colonists themselves who appeal to the Proprietors and to the Bishop of London for clergymen to be sent to minister to them. There were earnest Christian churchmen in the province before the end of the seventeenth century, ready to give of their substance for the establishment and support of their church. Original Jackson and Melisent, his wife, early as 1680-81, really and truly "excited with a pious zeal for the propagation of the Christian religion and the divine service according to the liturgy of the Church of England," gave land "with the improvements thereon" for the establishment of a church, presumably upon the Wando; and Affra Coming, for "the love and duty" she had and owed to the churches as established in the kingdom of England, of which she professed herself a dutiful daughter, in 1698 made the munificent grant of seventeen acres adjoining the town for the support of its minister. Both Jonathan Amory and Martha, his wife, made small bequests for the same purpose. Nor were generous grants and bequests confined to the members of the Church of England. Isaac Mazyck, who ar-



rived in 1686, contributed largely to the building of the Huguenot Church, gave liberally towards its support during his life, and by his will bequeathed £100 sterling for the support of its minister. C  zar Moze, in 1687, from his little store, bequeathed his mite to assist in building a house of worship in the neighborhood of his plantation on the eastern branch of the Cooper River;<sup>1</sup> while Governor Blake, who, though a Puritan and a dissenter, possessing a liberal spirit towards all Christians, from his larger means, on June 20, 1695, gave £1000 sterling to the Independent or Congregationalist Church.<sup>2</sup> Frances Simonds, a widow, gave, in 1704, the lot of land on which the old White Meeting House was built, and, in 1707, added another lot.<sup>3</sup> In 1699 William Elliott gave the lot on which the Baptists erected their church,<sup>4</sup> and Mrs. Blake, the wife of the Governor, contributed liberally to the adornment of St. Philip's, the English church.<sup>5</sup>

If it be conceded that the Church of England, established by the charter of the province, had not been sufficiently alive to her duties prior to the end of the century, it must be remembered that from the very nature of her government her people in the colony were in a great measure dependent upon the Proprietors and the church at home for the means of carrying on her services and work. No episcopal ordination was needed for the Baptists nor for the Congregationalists — ministers could be raised up and set apart from their own bodies in this country. None but a regularly ordained clergyman could fully officiate for the English church; and for such, as

<sup>1</sup> Howe's *Hist. Presb. Ch.*, 108.

<sup>2</sup> Tablet before referred to. See *Year Book*, 1882, 292.

<sup>3</sup> Howe's *Hist. Presb. Ch.*, 131, note, 147, note.

<sup>4</sup> *Hist. First Baptist Ch.*, 55; *Year Book City of Charleston* (Courtenay), 1881, 316.

<sup>5</sup> Dalcho's *Ch. Hist.*, 26.

there was no bishop in America, the colonists were dependent upon the Proprietors and the Bishop of London. But the neglect of the Church of England, to whatever extent that may be legitimately charged, ended with the century. The Society for the Propagation of the Gospel was then organized in England, and South Carolina was its first field. With the aid of that society there were, as we have seen, in 1710, eight ministers of the Church of England and two French Protestant ministers who had conformed to the provisions of the act of 1706 in the use of the liturgy of the church and accepted support from the public treasury; one other French Protestant minister, who adhered to the discipline of the French church; five British Presbyterians or Independents; one Anabaptist and a small body of Quakers. There had been some changes by arrivals, deaths, and removals in the nine succeeding years; but the number of the clergy remained about the same, constituting a clerical force of one clergyman to about 500 whites and 600 negroes, a number which would be held, even in these days, a fair proportion.

If the complaint of the dissenters that Episcopacy had waited till the colony had increased in wealth and numbers, and then had come much in the spirit of proselytism and dictation, as the national and favored church,<sup>1</sup> was not altogether without foundation, it must, on the other hand, be remembered that the founder of the Presbyterian Church in South Carolina was but providentially cast upon the shores of the province, his coming having been neither of his own will nor at the instance of the members of his church. So, too, the Baptist minister had come as an exile driven from New England, seeking the religious indulgence promised in the Royal charter to those who could not conform to the church thereby established. It

<sup>1</sup> Howe's *Hist. Presb. Ch.*, 172.

remains, however, to the honor of the dissenters in the province, that, though themselves taxed to support the established church, they maintained their own churches by voluntary offerings in addition to the tax for religious purposes imposed by the government.

The high character of the clergy of the Church of England in the province was doubtless owing in a great measure to the care in their selection by the Society for the Propagation of the Gospel. Nor did the society desert other missionaries whom it sent. When these with their flocks were driven before the tomahawk and scalping knife into the town, the society wrote at once to Colonel Rhett, their agent, to give to each, as a gratuity, half a year's salary, and to extend the same relief to their schoolmasters. Nor did the society restrict their benevolence to their own missionaries, but instructed their agent to present to each clergyman in the province who had suffered in the general calamity, though not in the service of the society, a sum not exceeding £30.<sup>1</sup>

If Ramsay's statement that the early settlers had no sooner provided shelter and the necessities of life than they adopted measures for promoting the moral and literary improvement of themselves, and particularly of the rising generation,<sup>2</sup> is somewhat strained and overdrawn, it is nevertheless remarkable that, notwithstanding the constant political turmoil, the varied disasters which befell the colony, the continual apprehensions of war, and the actual repeated invasions of the province, so much was conceived and attempted in these respects. But few of the very first settlers, as may well be supposed, brought with them wives or children. The necessity for schools, therefore, did not begin for some years after the founding

<sup>1</sup> Dalcho's *Ch. Hist.*, 97.

<sup>2</sup> Ramsay's *Hist. of So. Ca.*, vol. II, 353.



of the colony. But before the seventeenth century had closed, the number of children born and brought here began to demand schools and religious instruction beyond the resources of the inhabitants. That many of the colonists were educated and accustomed to literary pursuits, there is abundant evidence.<sup>1</sup> Indeed, as early as 1698, but thirty-five years after the first charter of the province, but twenty-eight years after the founding of the colony, and thirty-two years before Franklin formed "The Junto," — the debating society out of which grew the Philadelphia Library, which he claimed to be the mother of all American subscription libraries, — a free public library had been established in Charles Town. The first act upon the subject, *i.e.* that of 1700, it is true, has not been preserved, but its enactment, and the establishment of the library under it, is definitely ascertained by the recital of the Church act of 1712, as well as the existence of the library at that time. We find, also, in the journals of the Commons on the 17th of June, 1703, that Nicholas Trott informed the House that Dr. Bray had sent sundry books as a further addition to the "Public Library," "together with additional books for a *layman's* library," and the thanks of the House were ordered to be transmitted to Dr. Bray by Trott. On the following 7th of May the Public Treasurer was ordered to pay Edward Moseley for transcribing the catalogue of the library books the sum of £5 15s.<sup>2</sup> This is believed to have been the first public library in America.

Lawson, who wrote in 1709, states that from the fact that the people lived in a town, they had drawn "ingenious people of most sciences whereby they had Tutors among them that educate their Youth *à la mode*." The

<sup>1</sup> *Hist. Sketches of So. Ca.* (Rivers), 231, quoting *Journals*.

<sup>2</sup> *Commons Journal*.

matter of education had, as we have seen, engaged the attention of the Assembly, and that by the act of 1710 commissioners had been appointed to receive legacies which had then been bequeathed for founding a free school. An appeal had also been made to the Society for the Propagation of the Gospel to assist in its establishment, as the best means of improving the spiritual as well as the temporal interests of the people. The society had answered this appeal, and in 1711 a school had been established, under the care of the Rev. William Guy. The school, it is true, was not altogether a free school, though it was so called; for only a limited number of scholars were educated without pay. But still it was an attempt in that direction. It was at this school that the Society for the Propagation of the Gospel first assisted in the education of the children of the colonists, charging its teachers that they were to take special care of the manners of their scholars, both in and out of school, teaching them to abhor lying and falsehood, to avoid evil speaking, and to love truth and honesty. The Rev. Mr. Guy remained but a short time in charge of this school, as he was removed in the same year to the cure of St. Helena, Beaufort. He was succeeded as master of it by the Rev. Thomas Morritt, who remained in charge until 1728, when he became rector of Prince George's Parish. The free school in connection with St. Philip's continued until broken up by the Revolution of 1776.<sup>1</sup>

<sup>1</sup> Professor McMaster, in his *Hist. of the United States* (vol. I, 27), has made the reckless statement that in the Southern States education was almost wholly neglected, *but nowhere to such an extent as in South Carolina*. "In that colony," he says, "prior to 1730 no such thing as a grammar school existed. Between 1731 and 1776 there were but five. During the Revolution there were none." The author of this work has elsewhere fully refuted this statement. See *Coll. Hist. Soc. of So. Ca.*, vol. IV, "Education in South Carolina prior to and during the Revolu-

The effect of the Indian wars had been rather to extend than to diminish the territory of the colony. The settlers had, at the first outbreak, been driven into the town, but as the Indians were defeated, the lands occupied by them in the immediate neighborhood of the colony were taken in and settled. Thus, as we have seen, the Yamassee lands were appropriated to new settlers. To protect these, a small fort of ten guns was built at Port Royal; another at Pallizado Fort, with five or six small guns; another at Savano Town, 140 miles from Charles Town, near the present site of the city of Augusta, which became known as Fort Moore; and another, "towards the head of the Santee," that is, at what was called the Congaree, — in all of which places there were about 100 men, in garri-sons divided into companies.<sup>1</sup>

Until 1717 there were few houses at Charles Town outside the fortifications, the lines of which have been before described. In that year the fortifications on the north, west, and south sides were dismantled and demolished to enlarge the town, which now began to spread out on the north across the creek, which ran where the market now stands, and on the west beyond what is now Meeting Street. There are but three buildings in the city of Charleston of which there is any historical authority for believing that they were built during the Proprietary Government.<sup>2</sup> Dr. Shecut, in his essay on the topography of

tion." Since writing that paper he has collected and now has in his hands copies of 412 advertisements relating to education, taken from the *Gazettes* published in Charles Town between 1732 and 1774, and has a list of the names of nearly 200 persons engaged in teaching as tutors, schoolmasters, or schoolmistresses during that time.

<sup>1</sup> *Colonial Records of No. Ca.*, vol. II, 422.

<sup>2</sup> There is a tradition that a small brick house of but two stories, still standing on Church Street, adjoining the lot on the southwest corner of Church and Tradd streets, is one of the very oldest in the city, and that



Charles Town, written in 1719, states that among the first brick houses built in the town was that in Cumberland Street, immediately opposite to which at that time was the Episcopal Methodist Church (where now stands the Champion Cotton Press), which was the residence of Chief Justice Trott, and next to which was an old magazine.<sup>1</sup> This latter, which also still stands, was doubtless the magazine of Carteret Bastion, which stood about where Cumberland and Meeting streets now intersect. Dr. Johnson, in his *Traditions*, states that Colonel Rhett's family mansion, at the time of his death, was the still excellent building now known as No. 60 Hazel Street.<sup>2</sup> Dr. Johnson is corroborated in this by a map published according to an act of Parliament, June 9, 1739, in which this house is represented as standing upon a tract of land marked as Colonel Rhett's. If this was Colonel Rhett's residence, the building was in all probability erected during the Proprietary rule; for Colonel Rhett died January 14, 1722, a little more than two years after the overthrow of that government. A watch or guard house stood at the end of Broad Street, where the old Exchange or Postoffice now stands.<sup>3</sup>

A few plantation residences built during the Proprietary Government still remain standing. The two oldest of these were both the properties of Landgrave Smith.

the Council of the province held their meetings in its rooms; but we have been able to find nothing on record in regard to it.

<sup>1</sup> Shecut's *Essays*, 6. The house and magazine still stand. The house unfortunately lost a story in the great fire of December, 1861. It had escaped all the previous disastrous conflagrations of the town and city; but in this fire it was gutted, and when rebuilt upon the old still substantial walls, the third story was left off. It is now the residence of Miss Whitney. It is to be observed, however, as discrediting the antiquity of this house, that it does not appear in a map published by Parliament in 1739, but on the contrary its site is left as vacant.

<sup>2</sup> Johnson's *Traditions*, 232.

<sup>3</sup> Shecut's *Essays*, 4; *The Olden Time of Carolina* (Mrs. Poyas), 17.

The first was his residence on Back River, a branch of the Cooper, and is believed to have been the first brick house in Carolina. Landgrave Smith afterward, in 1693, removed to "Yeamans Hall," or "Yeomans Hall," on Goose Creek, which some traditions would identify with the "country house" which Sir John Yeamans built when he came into the province, and to which he retired when the people would not "salute him governor," though he was a Landgrave;<sup>1</sup> others that it was the property of Lord Craven.<sup>2</sup> There is little probability that either of these traditions is true. Sir John could scarcely, in the time he was in the province, have built such a house; and Lord Craven was never in the colony at all. But, however built, the house has been in the family of Landgrave Smith for more than two hundred years, and, though much injured by the earthquake in 1886, still stands. It was surrounded by an earthwork, and had portholes in its walls, as a defence against the Indians; in the cellar was a deep well for supplying the family or garrison with water in case of a siege, and a subterranean passage, whose entrance can still be seen, led out under the garden to the creek, where boats were kept moored. There is in this old mansion a secret chamber, a small space between two walls with a sliding panel leading into it, which was used as a hiding-place for valuables, not only during the times of the Proprietary Government, but during the American Revolution when the family silver was safely secreted there. This house is but two stories high. The walls are stuccoed, and in large, old-fashioned panels.<sup>3</sup> The piazza or gallery which is now on its front face is

<sup>1</sup> *Harper's Magazine*, No. CCCVII, December, 1875, 16.

<sup>2</sup> *The Olden Time of Carolina* (Mrs. Poyas), 19.

<sup>3</sup> *Harper's Magazine*, *supra*; *The Olden Time of Carolina*; *A Day on Cooper River* (Irving), 20

probably a late addition, as the piazzas now so common in the South were not generally introduced into Carolina until the end of the last or before the beginning of the present century.<sup>1</sup> “Mulberry,” or “Mulberry Castle,” on the west side of Cooper River, was built in 1714. The land on which the house stands was purchased from Sir John Colleton by Thomas Broughton, afterwards the first Lieutenant Governor under the Royal Government. This, too, it is said, had loopholes for musketry, with bastions at the four corners. It was used also for the purpose of defending the settlers in the vicinity against incursions of Indians.<sup>2</sup>

The house built, in 1704, by Stephen Bull, who came out with the very first colonists, known as “Ashley Hall,” and after his death the residence in succession of the two William Bulls, his son and grandson, who for more than thirty years were Lieutenant Governors of the province under the Royal Government, and often the administrators of its affairs,—a house which was the scene of many historic incidents,—remained standing until burned in 1865, at the close of the late war.<sup>3</sup> It is remarkable that the houses built by two of the early settlers in South Carolina should so long have remained in existence.

<sup>1</sup> The first mention of a piazza we have found is in a letter of Edward Rutledge to Captain Simons, dated September 1, 1782. See Gibbes's Document, *Hist. of the Am. Rev.*, 218. No piazzas appear upon any of the pictures of buildings of the time save this.

<sup>2</sup> *A Day on Cooper River* (Irving), 13.

<sup>3</sup> Upon the evacuation of Charleston during the late war, in February, 1865, every house on the west bank of the Ashley—the place of the first settlement of the colony—was burned by the Federal besieging forces which came from James Island. But three houses were left standing in the whole of St. Andrew's Parish between the Ashley and Stono. One of these—Drayton Hall—was spared, it is said, because of Commodore Percival Drayton of the United States Navy. Anticipating this destruction, the last of the Bulls to reside in Ashley Hall, the Hon.



Several church buildings erected during the Proprietary period in the country remain in whole or in part. The oldest entire building yet standing is St. James, Goose Creek. It was built during the incumbency of the Rev. Francis Le Jau, D.D. (1707–17), probably in 1711, and remains, save for repairs after the earthquake of 1886, just as it was when first erected. It is built of brick, cherub heads adorn the windows, and the high pulpit, marble tablets of the Commandments, Creed, and Lord's Prayer, are surmounted by the Royal arms,—a decoration which preserved the little temple from desecration and destruction during the Revolutionary War.<sup>1</sup> The floor is of stone, seventeen mahogany pews fill it, and there is a gallery across one end. Memorial tablets and hatchments adorn the walls.<sup>2</sup> The walls of the old White Meeting House, at Dorchester, erected in 1700, still remains. The building was burned during the Revolution, but was rebuilt in 1794.<sup>3</sup> Near the same, the old tower of St. George's, Dorchester, built in 1719, still stands. The church was built of brick, seventy feet long by thirty wide, in cruciform shape, with Gothic windows, and the tower,

William Izard Bull, who, like his great-grandfather and grand-uncle, had been a Lieutenant Governor of the State, declaring that the invaders should never enter the mansion of his forefathers, himself set fire and burned it to the ground.

<sup>1</sup> "These arms were destroyed by the earthquake of 1886, and their exact restoration seemed impossible. But a few years before, a lady now deceased, the daughter of one of South Carolina's greatest scientists . . . (the late Professor John McCrady), had painted a copy in oils for the use of a New England society. This was obtained, and from it the restoration was made as it now stands." — *Historical Discourse*, by Rev. Robert Wilson, D.D., at St. James, Goose Creek, on Sunday, April 12, 1896. Appendix to *Year Book City of Charleston*, 1895 (John F. Ficken, Mayor).

<sup>2</sup> Dalcho's *Ch. Hist.*, 24; *Harper's Magazine*, No. CCCVII, December, 1875.

<sup>3</sup> Howe's *Hist. of Presb. Ch.*, 567; *Harper's Magazine*, as above.

which once held a ring of bells, shows how beautiful, complete, and church-like the little sanctuary must have been.<sup>1</sup> The second St. Philip's Church, that built under the act of 1710, upon the site of the present church (burned in 1835), the beauty of which was so extolled by Edmund Burke, was just nearing its completion, and so must be attributed to the period of the Proprietary Government. Its rising walls had been blown down in the great storm of 1716. It was opened on Easter Sunday, 1723, during the Provisional Government of Sir Francis Nicholson. Burke described it as "spacious and executed in a very handsome taste, exceeding everything of that kind we have in America."<sup>2</sup>

Notwithstanding the very genteel entertainments that Lawson tells that the country gentlemen extended to strangers, society in the colony was, at the end of the Proprietary Government, still in rather a primitive condition. Some account of it, in 1700, has come down to us from tradition as given by Landgrave Smith. In his courting days, he said, young girls received their beaux at three o'clock, having dined at twelve, expecting them to withdraw about six o'clock, as many families retired to bed at seven in the winter, and seldom extended their sitting in summer beyond eight o'clock, their fathers having learned to obey the curfew toll in England.<sup>3</sup> The rooms in those days, Landgrave Smith said, were all uncarpeted, the rough sides of the apartments remaining the natural color of whatever wood the house chanced

<sup>1</sup> Dalcho's *Ch. Hist.*, 346 ; *Harper's Magazine*, as above.

<sup>2</sup> Dalcho's *Ch. Hist.*, 123 ; quoting *Account of European Settlements in America*, vol. II, 258.

<sup>3</sup> Labat's account is that in Bridgetown, Barbadoes, they dined at two o'clock, and their dinner lasted four hours. Perhaps the cavaliers did the same in Charles Town and at their country seats, upon occasions of formal entertainments.

to be built of. Rush-bottomed chairs were usual.<sup>1</sup> It must be remembered, however, that Landgrave Smith belonged to the party in which the stiff and rigid morals of the Puritan were cultivated, and Hewatt tells that these were made the object of ridicule by their neighbors.<sup>2</sup> Lawson describes the gentlemen seated in the country as very courteous, living very nobly in their houses, and giving very genteel entertainments. The Swiss gentleman who wrote to his friend at Bern, in 1710, so favorable an account of the province, says that no people were more hospitable, generous, and willing to do good offices to strangers; that every one was ready to entertain them freely with the best they had. Moroseness and sullenness of temper, so common in other places, was rare among them. Though so happily situated that nobody was obliged to beg for food, yet the charity of the inhabitants was remarkable in making provisions for the poor. Those born of European parents, he says, were for the most part very temperate, and had generally an aversion to excessive drinking. He could not call to mind above two or three addicted to that vice.<sup>3</sup>

Besides these glimpses, we have little to guide us historically in regard to the condition of society during the Proprietary rule. In all probability, the people were as much divided in their habits and manners as in their politics, and the division ran along the same lines of churchmen and Puritans.

One of the distinguishing features in the Proprietary Governments of Carolina and New Jersey, from those of others, was in the number of Proprietors. The grant to the Earl of Carlisle, of Barbadoes, in 1624–29, to Lord

<sup>1</sup> *The Olden Time of Carolina*, 41.

<sup>2</sup> *Hist. of So. Ca.*, vol. I, 77.

<sup>3</sup> *A Letter from So. Ca., etc.*, 1710 (second ed., 1732), 42.



Baltimore, of Maryland, in 1632, to Sir Ferdinando Gorges, of Maine, in 1639, to William Penn, of Pennsylvania, in 1681, was each to an individual Proprietor. That to Carolina, in 1663-65, was to eight Proprietors, and that to New Jersey, in 1664, was to two,—Lord John Berkeley and Sir George Carteret, two of the Carolina Proprietors. A Royal Government had been substituted for the Proprietary in Barbadoes the same year as that in which the grant of Carolina was made, 1663. The grant of Maine passed to the company of Massachusetts Bay in 1677, and that of Maryland was resumed by the Crown in 1690. The Proprietary Government of Pennsylvania continued until the Revolution. That of New Jersey became subdivided, until towards the close of the seventeenth century, the number of Proprietors had so increased as to render good government impracticable in consequence of divergent interests and views. The evil became unendurable, and in 1702 by the general consent of the Proprietors and people the former, while retaining all their rights of property, surrendered their rights of government to the Crown.

Well would it have been for the province had the Proprietors of Carolina adopted the same course. They were, it is true, not so numerous as those of New Jersey ultimately became, but they were too many and too often changing for the efficient exercise of such powers. The continual changes and frequently recurring minorities and guardianships of the heirs or devisees of shares as deaths occurred among them, rendered the Board of Proprietors in a great measure perfunctory in its character, and allowed it at times to fall under the control of some irresponsible individual. Thus it was that while Sir George Carteret was Palatine the province was managed really by Locke, who was not officially con-

nected with the Proprietors as a body, but merely the private secretary of Shaftesbury, and that after him John Archdale, while not really a Proprietor himself, in a great measure controlled its affairs; and that after Archdale Mr. Shelton, the secretary, relieved the indolent members of their duties at the board, and conducted the affairs of the province of his own will, only asking their signatures to carry out what he proposed. The old Earl of Craven during his long presidency appears to have been always at hand as Palatine, and the Earl of Bath for the short time of his palatinate attended to its duties with some regularity; but Lord John Granville was the only Palatine who took an active interest in the affairs of the colony, and his interest in the matter was induced by and was subservient to the great political struggle of the time in England.

The colonists of Carolina had now, with the connivance of the Royal Government, overthrown the weak and uncertain rule of this careless and inefficient body, and great was their demonstration of joy upon coming directly under the rule of the King. But, after all, what had they gained? They were turned over by his Majesty, the King, to the control of the Board of Trade and Plantations. Would this board prove more attentive to, and observant of, their interests than the Board of Proprietors had been? If the self-interest of the Proprietors had not been sufficient to secure their attention to the province, was it likely that the Board of Trade and Plantations, without such interested motives, would be more attentive and concerned for their welfare? Then again, in their contests with the Proprietors, they had had a measure to which they could always appeal, and by which the conduct of the Proprietors could be judged. Was the conduct of the Proprietors in accordance with their charter?

was a question they had a right to ask. But now there was no longer any charter to which they could appeal in restraint of the Board of Trade. Under the Royal Government, upon whose protection and under whose immediate control they had thrown themselves, in the place of the charter their rights and duties were to be prescribed in the Royal *Instructions* to the Governors, nominally by his Majesty, in reality by the Commissioners of Trade and Plantations, in which instructions there was to be no saving clause providing for "the advice assent and approbation of the freemen" of the province.



# APPENDIX

## I

### RULES OF PRECEDENCY

#### UNDER LOCKE'S FUNDAMENTAL CONSTITUTIONS

1st. The Lords Proprietors, the eldest in age first,<sup>1</sup> and so in order.

2d. The eldest sons of the Lords Proprietors, the eldest in age first, and so in order.

3d. The Landgraves of the Grand Council; he that hath been longest of the Grand Council first, and so in order.

4th. The Caciques of the Grand Council; he that hath been longest of the Grand Council first, and so in order.

5th. The seven commoners of the Grand Council, that have been longest of the Grand Council; he that hath been longest of the Grand Council first, and so in order.

6th. The younger sons of the Proprietors; the eldest first, and so in order.

7th. The Landgraves; the eldest in age first, and so in order.

8th. The seven commoners who next to those before mentioned have been longest of the Grand Council; he that hath been longest of the Grand Council first, and so in order.

9th. The Caciques, the eldest in age first, and so in order.

10th. The seven remaining commoners of the Grand Council; he that hath been longest of the Grand Council first, and so in order.

11th. The male line of the Proprietors.

The rest shall be determined by the Chamberlain's Court.

<sup>1</sup> The first article of the Constitutions provided that the eldest of the Lords Proprietors shall be Palatine; and upon the decease of the Palatine the eldest of the seven Proprietors should always succeed him.

## II

DEVOLUTION OF TITLE OF THE PROPRIETARY SHARES  
IN CAROLINA

1. *Earl of Clarendon's Share.* — During the exile of the Earl of Clarendon from 1667 to his death, 9th of December, 1674, this share was represented by Lord Cornbury, son of the Earl. It was afterwards purchased by Seth Sothell (or Southwell), September, 1681 (*Coll. Hist. Soc. of So. Ca.*, vol. I, 105). Sothell died in North Carolina in 1694, as it was supposed, without heirs, assigns, or will, and the remaining Proprietors sequestered the share under the provisions of the Fundamental Constitutions, and assigned it to Thomas Amy, 29th of September, 1697. Upon the marriage of his daughter to Nicholas Trott of London, Amy assigned the share to Trott as a marriage portion, 21st of March, 1700. Under proceedings in chancery, the share, with that originally belonging to Sir William Berkeley, which also stood in the name of Thomas Amy, was sold 16th of February, 1724, at £900 for both, to Hugh Watson, who purchased as trustee of Henry and James Bertie, and subsequently this particular share was allotted to the Hon. James Bertie (*Danson v. Trott, Brown Parl. Cases*, vol. III, 452–457), in whose name it was surrendered to the Crown (*Statutes of So. Ca.*, vol. I, 62).

2. *Duke of Albemarle's Share.* — The Duke of Albemarle died 3d of December, 1669, and his share descended to his son, the second Duke, who died in 1688 without issue (*Burke*). The Earl of Bath was admitted as Proprietor in his room 24th of April, 1694 (*Coll. Hist. Soc. of So. Ca.*, vol. I, 135). The Earl of Bath died 21st of August, 1701, and was succeeded by his son, John Lord Granville (*Ibid.*, 150). The share subsequently became vested in the Duke of Beaufort in April, 1709 (*Ibid.*, 156), who died 24th of May, 1714, and by his will devised it to James Bertie and Hon. Dodington Greville, trustees for his sons, Henry, the second Duke of Beaufort, and Charles Noel Somerset, in whose name it was surrendered to the Crown (*Statutes of So. Ca.*, vol. I, 62).

3. *Earl of Craven's Share.* — The Earl of Craven died 9th of April, 1697, without issue, and William Lord Craven, his grandnephew, succeeded to his proprietorship (*Coll. Hist. Soc. of So. Ca.*, vol. I, 141). He was succeeded by his son William Lord Craven 8th of November, 1711, in whose name the share was surrendered to the Crown (*Statutes of So. Ca.*, vol. I, 62).

4. *Lord Berkeley's Share.* — Lord Berkeley fell in arrears in the joint stock, failing to pay his quota, and his share appears to have been forfeited and disposed of by the Proprietors to Joseph Blake on the 11th of April, 1698 (*Danson v. Trott, Coll. Hist. Soc. of So. Ca.*, vol. I, 148, 211). He died in 1700, and was succeeded by his son Joseph Blake, a minor, in whose name the share was surrendered to the Crown (*Statutes of So. Ca.*, vol. I, 62).

5. *Lord Ashley's Share.* — Lord Ashley, afterwards the Earl of Shaftesbury, died in exile, 21st of January, 1683, and was succeeded by his son Anthony Ashley, the second Earl, who died 10th of November, 1699, and was succeeded by his son Anthony Ashley, the third Earl (*Burke*). The share became vested in Maurice, brother of the third Earl, who died without issue in 1726 (*Ibid.*), when the same became vested in Archibald Hutcheson, in trust for John Cotton, in whose name it was surrendered to the Crown (*Statutes of So. Ca.*, vol. I, 62).

6. *Sir George Carteret's Share.* — Sir George Carteret died 13th of January, 1679, and was succeeded by his son Sir George, who died in 1695, and was succeeded by his son John Lord Carteret, afterwards Earl of Granville, who refused to join the other Proprietors in the surrender of 1729, and held his share until 1744, when he released upon the allotment to him in severalty of a part of North Carolina (*Colonial Records of No. Ca.*, vol. IV, 655).

7. *Sir John Colleton's Share.* — Sir John Colleton died in 1666, and was succeeded by his son Sir Peter, who died April, 1694 (*Coll. Hist. Soc. of So. Ca.*, vol. I, 136), and he was succeeded by his son Sir John, a minor, in whose name it was surrendered to the Crown (*Statutes of So. Ca.*, vol. I, 62).

8. *Sir William Berkeley's Share.* — Sir William Berkeley died 13th of July, 1677 (*Cooke's Hist. of Va., Am. Com. Series*, 296). He devised his share to his widow, who afterwards married Philip Ludwell. While Lady Berkeley she sold the share to John Archdale, 20th of May, 1681, who took the title in the name of his son Thomas. Disregarding this sale, after her marriage she joined Philip Ludwell, her husband, in another sale of the same in 1682, and conveyed the same to Thomas Amy in trust for the then Duke of Albemarle, the then Lord Carteret, the Earl of Craven, and Sir John Colleton. Subsequently, in 1697, the four noblemen, *cestuis que trust*, requested William Thornburg to act as trustee in the place of Amy. Thornburg did so act, but without conveyance of the title by Amy. Subsequently, in 1705, the four *cestuis que trust* sold to and executed a deed to John Archdale of the



same — the legal title still remaining in Thomas Amy. Archdale executed a deed for the same to his own son-in-law John Danson, 21st of October, 1708. These complications led to litigation, and under proceedings in chancery the share was again sold, together with that formerly of the Earl of Clarendon, then of Sothell, and was purchased, as before stated, by Hugh Watson as trustee of Henry and James Bertie, and subsequently this particular share was allotted to Henry Bertie (*Danson v. Trott*, above), in whose name it was surrendered to the Crown (*Statutes of So. Ca.*, vol. I, 62).

## III

## LIST OF PALATINES

1. Duke of Albemarle,	21st of October, 1669	<i>Col. Rec. of No. Ca.</i> , I, 179
2. John Lord Berkeley,	20th of January, 1670	“ “ “ I, 180
3. Sir George Carteret,		“ “ “ I, 239
4. William Earl of Craven,	1681	“ “ “ I, 338
5. John Earl of Bath, <sup>1</sup>	April, 1697	“ “ “ I, 476
6. John Lord Gran-	} 10th of January, 1701-2	<i>Coll. Hist. Soc. of So. Ca.</i> , I, 105
ville,		“ “ “ “ I, 150
7. William Lord Craven,	1708	“ “ “ “ I, 153
8. Henry Duke of		
Beaufort,	8th of November, 1711	“ “ “ “ I, 183
9. John Lord Carteret,	10th of August, 1714	“ “ “ “ I, 163

<sup>1</sup> The Earl of Bath is mentioned as the *fourth* Palatine as follows: “1701-2 Jan 10 St James House — Memorandum of the death of John Earl of Bath *fourth* palatine of Carolina (21 August, 1701, Thursday) The Lords proprietors did not meet until Saturday 10 Jan 1701-2, when John Granville esq. succeeded the said Earl his father as the *fifth* palatine of Carolina” (*Coll. Hist. Soc. of So. Ca.*, vol. I, 150).

The explanation of this may be that as Lord Berkeley failed to pay his quota to the joint stock, he lost his position, as the other Proprietors did indeed sequester his share, but he certainly did succeed the Duke of Albemarle as above.

## IV

## LANDGRAVES AND CACIQUES

The Royal charter reciting: “13<sup>th</sup>. And because many persons born and inhabiting in the said Province for their deserts and services may expect and be capable of marks of honour and favour *which in respect to the great distance cannot conveniently be conferred by us,*” etc.,

gave to the Proprietors "full power and authority to give and confer unto, and upon *such of the inhabitants of the said province or territory* as they shall think due or shall merit the same such marks of favour and titles of honour as they shall think fit so as their titles or honours be not the same as are enjoyed by or conferred upon any of the subjects of this our kingdom of England."

In carrying out this power the Proprietors provided in their Fundamental Constitutions as follows:—

"IX. There shall be just as many landgraves as there are counties, and twice as many Cassiques and no more. These shall be the hereditary nobility of the province," etc.

The nobility thus to be established, it will be observed, was intended by the charter to be confined to the inhabitants of the province, and so it was understood by the Proprietors, as shown by the above provision of the Fundamental Constitutions. But as will appear by the following list of Landgraves and caciques appointed, the restriction was disregarded. The titles were bestowed upon the friends of the Proprietors in England for services rendered them or from favor. In the following list, those who could at all come under the definition of "inhabitants" are given in italics. Most of these, it will be observed, were Governors; it being customary to compliment the Governor with the title and the accompanying 48,000 acres of land. The provision of the Constitutions limiting the number of Landgraves to the number of counties, and of the Caciques to double that number, it also appears was likewise disregarded. All the Governors appointed Landgraves are marked in the following lists as "inhabitants," because they actually came to Carolina, but in most of these cases it is questionable whether even they were included in the terms of the charter, as the title was bestowed upon them before their coming, and when they were not inhabitants of the colony.

#### LIST OF LANDGRAVES

1. John Locke, author of the Fundamental Constitutions, 1671.
2. James Carteret, Baronet, 1671.
3. *Sir John Yeamans*, first Governor of Carolina, 1671.
4. Sir Edmund Andros, appointed Governor of Carolina, but did not act, 1671.
5. *Colonel Joseph West*, Governor of Carolina, 1674.
6. Thomas Colleton, Esq., of Barbadoes, brother of Sir Peter Colleton, Proprietor, 1681.

7. *Joseph Mor(e)ton*, Esq., Governor of Carolina, 1681.
8. *Daniel Axtell* of the Council of Carolina, 1681.
9. *Sir Richard Kyrle*, Knight, Governor of Carolina, 1684.
10. *James Colleton*, Esq., Governor of Carolina, brother of Sir Peter, Proprietor, 1686.
11. Mr. John Price, 1687.
12. *Thomas Smith*, Esq., Governor of Carolina, 1691.
13. *Colonel Robert Daniel*, Deputy Governor of North Carolina; afterwards Governor of South Carolina, 1691.
14. *John Archdale*, Governor of Carolina, Proprietor, 1694.
15. *Joseph Blake*, Proprietor and Governor of Carolina, 1696.
16. Thomas Amy, Esq., Merchant of London, Proprietor, 1697.
17. *Edmund Bellinger* of the Council of Carolina, 1698.
18. John Bayly, Esq., of Balmaclough, Tipperary, Ireland, 1698.
19. John Wyche, Esq., of London, Secretary of Proprietors, 1700.
20. *Sir Nathaniel Johnson*, Knight, M. P., Governor of Carolina, 1703.
21. *Christopher Baron de Graffenreid*, 1709.
22. Major Edward Juckes, 1709.
23. Abel Kettleby, Esq., of the Middle Temple, Barrister, Attorney General, and agent of province, 1715.
24. Mr. William Hodgson, son-in-law of Lord Craven.
25. *Charles Eden*, Esq., Governor of North Carolina, 1718.

#### LIST OF CACIQUES

1. *Captain Henry Wilkinson*, 1681.
2. Mr. John Smith of the Grand Council of Carolina, 1682.
3. Major Thomas Rowe, 1682.
4. Mr. Thomas Amy of London (see above list of Landgraves), 1682.
5. *John Gibbs*, Esq., a relative of the Duke of Albemarle, 1682.
6. *John Ashby*, Esq., of London, 1682.
7. *John Monk*, Esq., named by Duke of Albemarle, 168—.
8. *Sir Nathaniel Johnson* (see above list of Landgraves), 1686.
9. *Dr. Christopher Dominick*.
10. *Thomas Smith*, Esq., of the Council of Carolina (see above list of Landgraves), 1690.
11. *Philip Ludwell*, Esq., Governor of Carolina, 1692.
12. Mr. William Hodgson (see above list of Landgraves), 1715.



NOTE. — Of the foregoing lists the names of the Landgraves up to and including that of John Price, and the names of the Caciques up to and including John Monk, are to be found in the *Calendar of State Papers, Colonial Series*, 1669–74, edited by Noel Sainsbury, Assistant Keeper of Records, London, 1889. The remainder has been collated with the assistance of Langdon Cheves, Esq., counsellor at law, Charleston, South Carolina.

In the *Coll. Hist. Soc. of So. Ca.*, vol. I, 174, there are these entries, "1726 July 1. Document signed Thomas Lowndes being a memorandum that he has purchased of the heirs and executors of John Price deceased a landgraveship with four baronies of 12,000 acres thereto annexed; that the said Mr. Lowndes did surrender his patent and did accept in lieu four single baronies one in his own name, and three in the names of three other persons in trust for him."

*Ibid.*, 198. "1726 March 30. . . . Agreed to make Col. Samuel Horsey for his services a landgrave annexing thereto four baronies of 12,000 acres each."

## V

### LIST OF GOVERNORS

1. Sir John Yeamans, Lieutenant General and Governor of the province of Carolina, 11th of January, 1664–65.
2. William Sayle, first Governor of the colony established on the Ashley River, July 26, 1669; died September, 1670.
3. Joseph West, chosen by Council on death of Sayle, September, 1670; removed by Proprietors, 19th of April, 1672.
4. Sir John Yeamans, proclaimed by Proprietors, 19th of April, 1672; removed 18th of April, 1674.
5. Joseph West, appointed by Proprietors, 18th of April, 1674; removed 18th of May, 1682.
6. Joseph Mor(e)ton, appointed by Proprietors, 18th of May, 1682; removed — April, 1684.
7. Richard Kyrle, appointed by Proprietors, 29th of April, 1684; died, —, 1684.
8. Robert Quarry, chosen by Council on death of Kyrle, —, 1684; removed by Proprietors, 11th of March, 1684–85.
9. Joseph West, appointed by Proprietors, 11th of March, 1684–85; retired September, 1685.

10. Joseph Mor(e)ton, chosen by Council September, 1685; confirmed by Proprietors; removed, —, 1686.

11. James Colleton, appointed by Proprietors, —, 1686; overthrown by revolution, 1690.

12. Seth Sothell, assumed government as a Proprietor, 6th of October, 1690; yielded to Ludwell, appointed by Proprietors, 2d of November, 1691.

13. Philip Ludwell, appointed by Proprietors, 2d of November, 1691; removed by Proprietors, 29th of November, 1693.

14. Thomas Smith, appointed by Proprietors, 29th of November, 1693; retired, 1694.

15. Joseph Blake, chosen by Council, 1694; removed by Proprietors, 31st of August, 1694.

16. John Archdale, appointed by Proprietors, 31st of August, 1694; retired —, 1696.

17. Joseph Blake, appointed by Governor Archdale as Deputy on his retirement under special power, —, 1696; appointment confirmed by Proprietors, 25th of April, 1697; died, 1700.

18. James Moore, chosen by Council, 1700; not confirmed by Proprietors but allowed to exercise office until 18th of June, 1702.

19. Sir Nathaniel Johnson, appointed by Proprietors, 18th of June, 1702; removed, 9th of December, 1708.

20. Colonel Edward Tynte, appointed by Proprietors, 9th of December, 1708; died, 1709.

21. Robert Gibbes, chosen by Council, 1709; not confirmed by Proprietors but allowed to exercise office until 1712.

22. Hon. Edward Craven, appointed by Proprietors, —, 1712; retired, 25th of April, 1716.

23. Robert Daniel, appointed by Governor Craven as Deputy, on his retirement under special power, 25th of April, 1716; removed, 30th of April, 1717.

24. Robert Johnson, appointed by Proprietors, 30th of April, 1717; Proprietary Government overthrown, 21st of December, 1719.

25. James Moore, son of former Governor, chosen by the Convention, 21st of December, 1719.

VI

LAW OFFICERS

CHIEF JUSTICES:

Edmund Bohun . . . . .	1698-1700
James Moore . . . . .	1700-1701
Nicholas Trott . . . . .	1702-1709
Robert Gibbes . . . . .	1709-1713
Nicholas Trott . . . . .	1713-1719

ATTORNEY GENERALS:

Nicholas Trott . . . . .	1698-1702
James Moore . . . . .	1703-
William Sanders . . . . .	1708-1710
George Evans . . . . .	1710-1716
Richard Pindar . . . . .	1716
George Rodd . . . . .	1716
Richard Allein . . . . .	1718

JUDGES OF COURT OF ADMIRALTY:

Joseph Mor(e)ton . . . . .	1699
John Turbill . . . . .	1708
Thomas Nairne . . . . .	1710
Nicholas Trott . . . . .	1716



## VII

## POPULATION

	Whites.	Negro Slaves.	Total.	
1671	200	..	200	<i>Calendar State Papers, Colonial</i> (Sainsbury), London, 1889, No. 474.
1671-72	399	..	399	<i>Calendar State Papers, Colonial</i> (Sainsbury), London, 1889, No. 736. <i>Charleston Year Book</i> (Courtenay), 1883, 379.
1680	1200	..	1200	T—— A—— Gen't (Thomas Ashe), Carroll's <i>Coll.</i> , vol. II, 82.
1685	2500	..	2500	Howe's <i>Hist. of Presb. Ch.</i> , 85; <i>Charleston Year Book</i> , <i>supra</i> , 385. <sup>1</sup>
1699-1700	5500	..	5500	Edward Randolph, Appendix, <i>Hist. Sketches</i> (Rivers), 443; <i>Coll. Hist. Soc. of So. Ca.</i> , vol. I, 210; Hewatt's <i>Hist. of So. Ca.</i> , vol. I, 147; Draryt's <i>View of So. Ca.</i> , 193; Dalcho's <i>Ch. Hist.</i> , 39; see <i>ante</i> , Chap. XIV.
1701	..	..	7000	Mills's <i>Statistics of So. Ca.</i> , 177, quoting Humphrey's <i>Historical Account of Society for Propagation of the Gospel</i> , 25. <sup>2</sup>
1708	4080	4100	8180	Report of Governor N. Johnson, <i>Hist. Sketches of So. Ca.</i> (Rivers), 232; Chapter <i>Colonial Hist. of Carolina</i> (Rivers), 66; <i>Coll. Hist. Soc. of So. Ca.</i> , vol. II, 217. <sup>3</sup>
1708	..	..	12,000	Oldmixon's <i>British Empire in Am.</i> , vol. I, 518; Carroll's <i>Coll.</i> , vol. II, 460; Chapter <i>Colonial Hist.</i> , 66. <sup>4</sup>
1714	..	10,000	..	<i>Hist. Sketches of So. Ca.</i> (Rivers), 251, note.
1715	6250	10,500	16,750	Hildreth's <i>History of the United States</i> , vol. II, 278.
1716	..	10,000	..	<i>Colonial Records of No. Ca.</i> , vol. II, 233.
1719	6460	..	..	Report of Governor Robert Johnson, <i>Coll. Hist. Soc. of So. Ca.</i> , vol. II, 239.

<sup>1</sup> This is a mere estimate by the author Dr. Howe, resting upon no original authority which we can find.

<sup>2</sup> Estimate of Dr. Humphrey's, resting upon no original authority.

<sup>3</sup> Governor Johnson reports the number of Indian slaves as 1400.

<sup>4</sup> Estimate of Oldmixon, the author, contradicted by report of Governor Sir Nathaniel Johnson and Council.

## VIII

AN ACCOUNT OF THE NUMBER OF SHIPS AND VESSELS ENTERED, AND OF NEGROES IMPORTED FROM THE YEAR 1706 TO THE YEAR 1724, BOTH INCLUSIVE; VIZ.:—

Years.	Negroes.	Vessels.
1706 . . . . .	24 . . . . .	68
1707 . . . . .	22 . . . . .	66
1708 . . . . .	53 . . . . .	81
1709 . . . . .	107 . . . . .	70
1710 . . . . .	131 . . . . .	92
1711 . . . . .	170 . . . . .	81
1712 . . . . .	76 . . . . .	82
1713 . . . . .	159 . . . . .	99
1714 . . . . .	419 . . . . .	121
1715 . . . . .	81 . . . . .	133
1716 . . . . .	67 . . . . .	162
1717 . . . . .	573 . . . . .	127
1718 . . . . .	529 . . . . .	114
1719 . . . . .	541 . . . . .	137
1720 . . . . .	601 . . . . .	129
1721 . . . . .	165 . . . . .	121
1722 . . . . .	323 . . . . .	120
1723 . . . . .	436 . . . . .	116
1724 . . . . .	604 . . . . .	122
In 19 years . . .	5081 . . . . .	2041

This account is taken from “The Report of the Committee of the *Commons House* of Assembly of the Province of South Carolina, on the State of the Paper Currency of the said Province. London. Printed by Thomas Wood, in the year MDCCXXXVII.”





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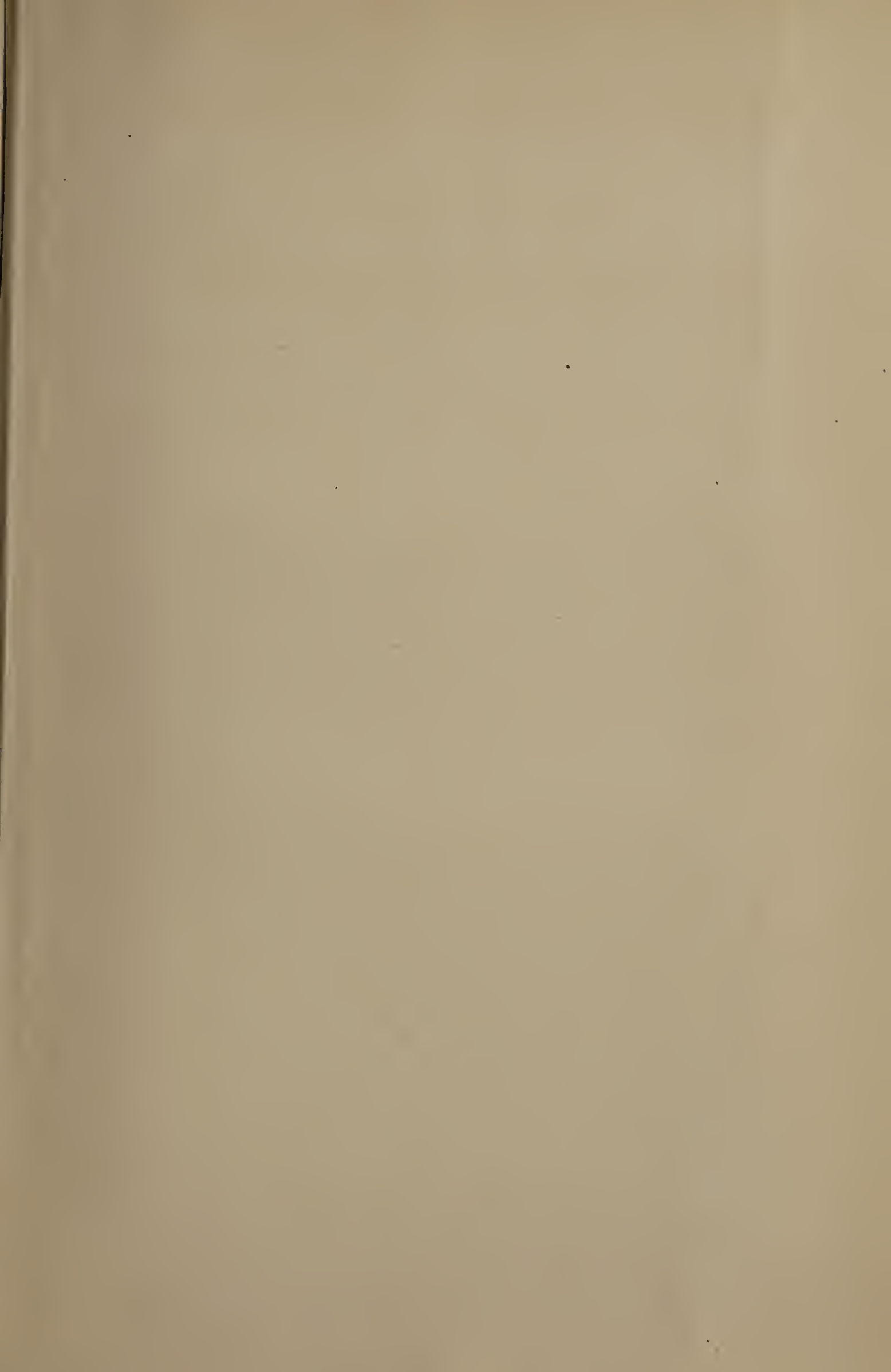
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